

UNITED STATES DISTRICT COURT  
DISTRICT OF MASSACHUSETTS

UNITED STATES OF AMERICA,

Plaintiff,

Criminal Action  
No. 19-10063-DJC

V.

July 20, 2022  
8:47 a.m.

Defendant.

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UNITED STATES DISTRICT COURT

JOHN J. MOAKLEY U. S. COURTHOUSE

## 1 COURTHOUSE WAY

BOSTON, MA 02210

22 DEBRA M. JOYCE, RMR, CRR, FCRR  
Official Court Reporter  
23 John J. Moakley U.S. Courthouse  
1 Courthouse Way, Room 5204  
24 Boston, MA 02210  
joycedebra@gmail.com

1 APPEARANCES:

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## PROCEDING S

2 (The following proceedings were held in open  
3 court before the Honorable Denise J. Casper, United States  
4 District Judge, United States District Court, District of  
5 Massachusetts, at the John J. Moakley United States Courthouse,  
6 1 Courthouse Way, Boston, Massachusetts, on July 20, 2022.

7 The defendant, Randall Crater, is present with  
8 counsel. The Assistant U.S. Attorneys are present.)

9 THE CLERK: All rise.

08:47 10 (The Court entered the courtroom.)

11 THE CLERK: Court is in session. Please be seated.

12 THE COURT: Good morning.

13 ALL: Good morning, your Honor.

14 THE COURT: Counsel, I did receive, Mr. Lopez, your  
15 email with the attachments and the update about not calling  
16 Mr. Gifford; is that correct?

17 MR. LOPEZ: That's correct, your Honor.

18                   THE COURT: Are the other -- I know we were finishing  
19 the direct of Mr. Gillespie. What are the other witnesses? Is  
20 Mr. Callahan still --

21 MR. LOPEZ: Mr. Galvin I have scheduled for 10:00 this  
22 morning.

23 THE COURT: I did see that.

24 MR. LOPEZ: Michael Singleton, and Tom Callahan.

25 | THE COURT: So not Mr. Brantley.

1 MR. LOPEZ: And Mr. Brantley as well.

2 THE COURT: So only Mr. Gifford is coming off, okay.

3 MR. LOPEZ: I didn't catch that.

4 THE COURT: Only Mr. Gifford is coming off.

5 MR. LOPEZ: That's correct.

6 THE COURT: Okay. And, counsel, where are we in  
7 regard to Mr. Crater's intentions about testifying?

8 MR. LOPEZ: My understanding is he does not want to  
9 testify.

08:48 10 Why don't I inquire of Mr. Crater.

11 If I can address you directly.

12 Good morning.

13 THE DEFENDANT: Good morning, your Honor.

14 THE COURT: Sir, as I indicated yesterday, I was going  
15 to ask you directly about your intentions about testifying or  
16 not.

17 Sir, do you understand you have the right not to  
18 testify?

19 THE DEFENDANT: Yes, your Honor.

08:48 20 THE COURT: And you also have the right, if you choose  
21 to, to testify.

22 THE DEFENDANT: Yes, your Honor.

23 THE COURT: And have you discussed that with your  
24 counsel?

25 THE DEFENDANT: Yes, your Honor.

1                   THE COURT: Have you made a decision based on your  
2 discussions?

3                   THE DEFENDANT: Yes, your Honor.

4                   THE COURT: And what's that decision?

5                   THE DEFENDANT: I'm not going to testify, your Honor.

6                   THE COURT: Okay. Thank you. You may be seated.

7                   Any further inquiry I should make on this?

8                   MR. MARKHAM: Nothing from the government, your Honor.

9                   THE COURT: Mr. Lopez?

08:49 10           MR. LOPEZ: No, your Honor.

11                  THE COURT: Counsel, let's just address -- there are a  
12 few exhibits attached to Mr. Lopez's email. I think the first  
13 was admitted, Mr. Markham, the --

14                  MR. MARKHAM: Yes, your Honor, and I do apologize, I  
15 don't -- I'm pulling it up right now. I believe the first one  
16 was already in evidence.

17                  THE COURT: If we could just get a number, and we can  
18 come back to this if the paralegals on either side can let me  
19 know.

08:49 20           MR. MARKHAM: The exhibits are in order, so October  
21 19, 2014.

22                  THE COURT: I think it's -- you said 2014, right?

23                  MR. MARKHAM: Yes, October 19, 2014.

24                  THE COURT: Yes. I just wanted to get a number.

25                  And think, Mr. Lopez, if I'm reading -- I understood

1 this email to be attaching sort of these account lineups.

2 MR. LOPEZ: Yes.

3 THE COURT: So it's a multipage exhibit.

4 MR. LOPEZ: Correct.

5 THE COURT: And then I think the next one after that  
6 says "Press Release Today."

7 MR. LOPEZ: Yes.

8 THE COURT: And that's August 4, 2014.

9 MR. LOPEZ: Yes.

08:50 10 THE COURT: What's the government's position?

11 MR. MARKHAM: There's going to be no objection to  
12 this, your Honor.

13 THE COURT: Okay. And what about -- the last one I  
14 have says "Partnership Portfolio Commitment" from Mr. Galvin.

15 MR. MARKHAM: I apologize, your Honor. Can I go back  
16 to the email? I'm just looking at all -- the email we don't  
17 have any objections to.

18 I'm just looking at the page-long attachment that's  
19 from Adam Tracy that seems to just be a bunch of hearsay  
08:50 20 statements about My Big Coin.

21 MR. LOPEZ: Your Honor, Mr. Singleton is going to  
22 testify that he was -- he helped prepare that.

23 MR. MARKHAM: Okay, your Honor.

24 THE COURT: Okay. So you don't anticipate objecting  
25 then?

1                   MR. MARKHAM: We don't, your Honor.

2                   THE COURT: What about the Mr. Galvin email?

3                   MR. MARKHAM: Yes, your Honor, this isn't an  
4 authenticated email. The Randall Crater are stipulated to, so  
5 this one would have to be authenticated.

6                   THE COURT: And, Mr. Lopez, you're planning to offer  
7 it?

8                   MR. LOPEZ: I am, your Honor. And Mr. Galvin does  
9 have a copy of it, so I believe I'll be able to authenticate  
08:51 10 it.

11                  THE COURT: Oh, okay. Right, Mr. Galvin is still  
12 testifying.

13                  If it's authenticated, counsel, do you anticipate an  
14 objection?

15                  MR. MARKHAM: No, your Honor.

16                  THE COURT: Okay.

17                  So I'll listen for the foundation on those last two,  
18 and then we'll get the number on the October 19th. So  
19 Mr. Lopez, you can refer to it by its admitted number.

08:52 20            MR. MARKHAM: I believe it's 11EE, 11 double E.

21                  THE COURT: Okay.

22                  Counsel, any other disputed exhibits, Mr. Lopez, you  
23 anticipate coming up?

24                  MR. LOPEZ: Only the Harmonie website exhibits.

25                  THE COURT: Right. Those were the M series.

1 MR. LOPEZ: Yes.

2 THE COURT: Okay.

3 MR. LOPEZ: And there's also an 11II that's already  
4 admitted, but I'm going to have Mr. Singleton explain what it  
5 is.

6 THE COURT: Okay.

7 MR. MARKHAM: I apologize, your Honor, it looks like  
8 it's not 11EE --

9 MR. LOPEZ: Yeah, I don't believe I -- this hasn't  
08:52 10 been marked.

11 THE COURT: So, counsel, I don't know if there was  
12 another -- I have a memory of Mr. Lynch discussing it.

13 MR. LOPEZ: I tried to get it in through Mr. Lynch,  
14 but he said he didn't recognize it.

15 MR. MARKHAM: Your Honor, I'm almost positive this is  
16 in evidence because it's also one of the emails that  
17 Ms. Brekenfeld relied on going through these, but it may have  
18 been forwarded to someone, which is why in our date order it's  
19 off.

08:53 20 THE COURT: Sure. So, I guess, counsel, let's not  
21 assume this is in, but I'm assuming there's no objection and  
22 maybe we should just have it offered as another exhibit number.

23 MR. MARKHAM: Yes, your Honor, that's fine --

24 THE COURT: Okay.

25 MR. MARKHAM: -- with the government.

1                   THE COURT: And then, counsel, Mr. Lopez, how much  
2 time do you anticipate the rest of these witnesses taking?

3                   MR. LOPEZ: I think if they go in order, we should be  
4 done, depending on the cross, by 11:00.

5                   THE COURT: Okay.

6                   And so, counsel, obviously we'll have to see how  
7 things go. I'll try to keep us to our usual break schedule so  
8 that if it looks like we're getting close to finishing the  
9 evidence, we may go a little past 11:00 just so we can give the  
08:54 10 jury and everyone else a break. Then I would do -- I would  
11 hear, Mr. Lopez, to the extent he has to reserve on any motion.  
12 Then I would do the first part of the charge. Then we'll do  
13 closings.

14                   I understood the government was going to reserve 10 of  
15 their 35 minutes for rebuttal.

16                   MR. MOORE: That's correct, your Honor.

17                   THE COURT: Okay. So I will give -- and then  
18 Mr. Lopez has the total of 35 minutes. If anyone -- I'll give  
19 you a two-minute warning at 23, two-minute warning at 33 for  
08:54 20 Mr. Lopez, and a two-minute warning at 8 minutes for the  
21 rebuttal.

22                   And then, counsel, I'll do the rest of the charge and  
23 we'll go from there.

24                   We do have lunch for the jurors. So I'm keeping that  
25 in mind as well. We'll see how things go, but my hope is that

1 we could do closings and charge before lunch so we can send  
2 them up there with all of those things done by then.

3 Counsel, I've indicated before that I'll have you  
4 certify on the record to Ms. Hourihan that the exhibits are in  
5 order and I understand that you're planning to upload them to  
6 JERS as well, so we'll just have you certify that they're in  
7 order in hard copy or on JERS, and/or on JERS.

8 MR. MARKHAM: Yes, your Honor. The only logistical  
9 point is we're adding new exhibits this morning, so we might  
08:55 10 need some level of break to --

11 THE CLERK: If there's only a couple, you can just  
12 email them to me. So you don't need a new disk. If you have  
13 the disk now I can take it.

14 MR. MARKHAM: It's upstairs. We'll bring it down at  
15 the break.

16 THE CLERK: Okay.

17 THE COURT: In terms of the witness by Zoom,  
18 Mr. Lopez, are you anticipating he will go on after  
19 Mr. Gillespie, depending on where we are?

08:56 20 MR. LOPEZ: Yes. I guess assume Mr. Gillespie will be  
21 about 10, 15 minutes, maybe even five minutes for me. I don't  
22 know how long Mr. Markham is going to go.

23 If it turns out that we're ahead of time, I'll -- I  
24 expect Tom Callahan to be outside, so I'll call him.

25 THE COURT: So I'm not going to break up

1 Mr. Gillespie's testimony, I don't think we'll need to. We may  
2 have to break up one of the other witness' testimony depending  
3 on where we are for Mr. Galvin, but it sounds like Mr. Callahan  
4 is probably not going to be too long.

5 MR. LOPEZ: No.

6 THE COURT: And then, counsel, in terms of my charge,  
7 I think I mentioned this yesterday, my practice is when I get  
8 to the second-to-last page, so when I get to the end of the  
9 instruction on page 29, I would hear you at sidebar, Whisper  
08:57 10 Tech, to preserve any objections or make -- have me make any  
11 corrections, and then I would get to the last instruction.

12 I give the jury a hard copy of the jury charge and the  
13 verdict form, and I'll upload it, we'll upload it onto the JERS  
14 system as well.

15 And, counsel, just on this -- I will preserve for the  
16 moment on Petrozziello and 801(d) (2) until after the closings,  
17 and I'll give you my thoughts and make my ruling on the record.

18 Counsel, anything else we should take up?

19 MR. MARKHAM: The only thing I just wanted to bring to  
08:58 20 the Court's attention is Mr. Galvin, I don't know the extent of  
21 what his testimony is going to be. We did speak to him, and he  
22 discussed a lot of things about William Donahue, who is sort of  
23 a figure lurking in the background in this case, and about how  
24 William Donahue defrauded him. We're going to be objecting to  
25 that as irrelevant. I don't know if they're going to get into

1 that in direct examination. I just wanted the Court to be  
2 aware.

3 THE COURT: Okay.

4 Mr. Lopez, do you need to be heard at this time?

5 MR. LOPEZ: Your Honor, I do not intend to inquire  
6 into that subject area. However, I will forewarn the Court and  
7 Mr. --

8 THE COURT: Is there going to be an issue about  
9 responsiveness, counsel?

08:58 10 MR. LOPEZ: Well --

11 MR. MARKHAM: Verboseness, your Honor, I think --

12 THE COURT: Verboseness. it's great for Zoom, by the  
13 way.

14 MR. LOPEZ: It's very similar to Mr. Lynch, who just  
15 seemed not to be able to just answer the question and wait for  
16 the next question. So I'll do my best to control this witness,  
17 but --

18 THE COURT: I may at some point give you permission to  
19 lead, counsel, which may not have an objection from  
08:59 20 Mr. Markham.

21 MR. MARKHAM: I think we'll just take it as it goes,  
22 your Honor. But, yes, I will say the first question I asked  
23 him, he launched into a tirade about all this irrelevant stuff,  
24 you know.

25 THE COURT: So, counsel, I may -- if I see that

1 happening, counsel, I may also give Mr. Galvin direction in  
2 that regard.

3 MR. LOPEZ: Be my guest, your Honor.

4 THE COURT: Okay.

5 Ms. Hourihan, one thing.

6 (Discussion off the record.)

7 THE COURT: Counsel, if we're ready, why don't we see  
8 if we have all of our jurors.

9 Counsel, are we ready to begin if they're all here?

09:00 10 MR. MARKHAM: Yes, your Honor, the government is.

11 THE COURT: Mr. Lopez, is --

12 MR. LOPEZ: I believe so. I just have to go check  
13 on Mr. --

14 THE COURT: Okay.

15 THE CLERK: All rise for the jury.

16 (Jury entered the courtroom.)

17 THE CLERK: Court is in session. Please be seated.

18 THE COURT: Good morning.

19 JURY: Good morning.

09:02 20 THE COURT: We'll get started again.

21 Sir, Mr. Gillespie, come forward.

22 Thank you.

23 Good morning, sir.

24 THE WITNESS: Good morning.

25 THE COURT: I just remind you, you remain under oath.

1                   THE WITNESS:  Absolutely.

2                   THE COURT:  Thank you.

3                   Mr. Lopez.

4                   MR. LOPEZ:  Thank you, your Honor.

5                   MARK GILLESPIE, having been previously sworn by the  
6 Clerk, was further examined and testified as follows:

7                   CONTINUED DIRECT EXAMINATION

8                   BY MR. LOPEZ:

9                   Q.  Good morning, Mr. Gillespie.

09:02 10           A.  Good morning, counsel.

11                   MR. LOPEZ:  Mr. Sweeney, could you bring up 14D.

12                   Could you enlarge this email.

13                   Q.  Mr. Gillespie, can you just review this email before I ask  
14 you some questions.

15                   A.  Yes, sir.

16                   (Pause.)

17                   Q.  So looking at the email that you wrote, Greetings MBCP  
18 Investors, is that My Big Coin Pay investors?

19                   A.  It is.

09:03 20           Q.  You write, Congratulations.  Time to realize your returns  
21 in your investment in MBCP.  MBC/MBCP will fund your UltraCard  
22 with your returns from your MBC investment.  The prepaid  
23 UltraCard is accepted anywhere MasterCard is accepted, pay  
24 bills, shop online, withdraw cash and more.  UltraCard is fully  
25 integrated with virtual currency My Big Coin, Bitcoin and many

1 others and comes with a free virtual checking account.

2 Please go to [myultracard.com](http://myultracard.com) and register for your  
3 card ASAP. If you have already acquired your UltraCard, don't  
4 order another. Simply email me the last four digits on your  
5 card ASAP. Again, congratulations. Best regards from all of  
6 us at Big Coin. Mark Gillespie.

7 Did I read that correctly?

8 A. Absolutely correct, yes, sir.

9 Q. And you sent that to Mr. Crater?

09:04 10 A. I did.

11 Q. And why did you send it to Mr. Crater?

12 A. Probably for his review.

13 Q. For his review?

14 A. I believe so.

15 Q. And he responded to you?

16 A. I don't recall.

17 Q. Well, can you look at the top of the email.

18 A. Oh, I'm sorry. Yeah, absolutely.

19 Q. He said, Wouldn't send this out, Mark?

09:05 20 A. Right. Gotcha.

21 Q. So he was telling you not to send this out?

22 MR. MARKHAM: Objection.

23 A. Yes.

24 THE COURT: Overruled, the question and answer can  
25 stand.

1 MR. LOPEZ: All right. Can you bring up 14E.

2 BY MR. LOPEZ:

3 Q. As a result of his direction, did you send a different  
4 email to the MBCP investors?

5 A. Apparently.

6 Q. Is this the email that you sent?

7 A. It is.

8 Q. And you write, Greetings All, very informal advisement.  
9 Please go to My UltraCard and register for your card ASAP. Get  
09:06 10 your card. Formal explanation and paperwork will follow  
11 shortly from My Big Coin approximately first of the coming  
12 week. If you have already ordered your card, please send me  
13 the last four digits off your card ASAP.

14 A. Yes, sir.

15 Q. Would you agree with me that that email was substantially  
16 different than the one you were intending to send out  
17 previously?

18 A. I believe he corrected me on a few things as I recall.

19 Q. Okay.

09:06 20 MR. LOPEZ: Joe, could you bring up 179.

21 Q. Sir, do you see this email?

22 A. I do.

23 MR. LOPEZ: Your Honor, may I approach the witness?  
24 It might be a little bit easier.

25 THE COURT: You may.

1                   And, counsel, is this the one --

2                   MR. LOPEZ: Yes.

3                   THE COURT: -- we're offering.

4                   MR. LOPEZ: Yes, your Honor.

5                   THE COURT: Okay. Any objection?

6                   MR. MARKHAM: No, your Honor.

7                   THE COURT: Okay.

8                   So, Ms. Hourihan, we'll make this the next number.

9                   Is it 45?

09:07 10           THE CLERK: It is.

11                   THE COURT: This is admitted as 45. Thank you.

12                   (Exhibit 45 received into evidence.)

13                   THE WITNESS: Thank you.

14                   BY MR. LOPEZ:

15                   Q. I realize this email was sent to you a long time ago, but  
16 do you remember it?

17                   A. I do.

18                   Q. And do you remember what Mr. Lynch was asking you to do?

19                   A. Without going and reading the whole thing and taking the  
09:07 20 Court's time, I believe it was reviewing his accounts to try  
21 and make sure monies were in proper categories.

22                   Q. And if you turn to page 3 --

23                   MR. LOPEZ: Jeff, will you go down to page 3.

24                   Q. This is his -- this is a document that he prepared or  
25 someone prepared?

1 A. His paralegal Justine.

2 Q. Justine. And that's entitled "Sequence of Wiring  
3 Activity."

4 A. Yes, sir.

5 MR. LOPEZ: Go to the next page.

6 And the next page.

7 And the next page.

8 And the last page.

9 Q. Would it be -- well, strike that.

09:08 10 Did Mr. Lynch contact you on more than one occasion  
11 with respect to his accounts?

12 A. Frequently.

13 Q. And what do you mean by "frequently"?

14 A. Constantly. Often.

15 Q. Do you know whether or not Mr. Lynch was computer savvy?

16 A. My recollection is not particularly.

17 Q. Okay. And what is your basis for that belief?

18 A. That he would flip stuff over to his paralegal, who was  
19 very accomplished.

09:09 20 Q. Okay.

21 MR. LOPEZ: I have no further questions, your Honor.

22 THE COURT: Thank you.

23 Cross-examination.

24 MR. MARKHAM: Yes, your Honor.

25 CROSS-EXAMINATION

1 BY MR. MARKHAM:

2 Q. Good morning.

3 A. Good morning, sir.

4 Q. So the defense there just had you review a couple of  
5 emails from 2017. I believe you still have one in front of  
6 you.

7 A. Yes, sir.

8 Q. One of them the defendant had you correct a few statements  
9 before you sent an email out. Do you remember that?

09:10 10 A. I do.

11 Q. Okay. Had the defendant told you at that point that the  
12 CFTC was investigating My Big Coin for fraud?

13 A. I don't know what date that was.

14 MR. LOPEZ: Objection.

15 A. What date are we talking?

16 THE COURT: Counsel, what's the basis in a word?

17 MR. LOPEZ: Timing. I don't know that there's been  
18 any --

19 THE COURT: So, counsel, that was in regards to the  
09:10 20 last exhibit.

21 MR. MARKHAM: The second-to-last exhibit, your Honor.  
22 I'm just asking if in 2017 if he knew that.

23 THE COURT: Sure. You can put the question again.

24 MR. LOPEZ: In May of 2017.

25 THE COURT: Okay. You can ask the question again with

1 the timing.

2 BY MR. MARKHAM:

3 Q. In May of 2017, when the defendant had you revise an email  
4 to correct the misstatements, were you aware that the CFTC was  
5 already investigating?

6 A. I don't know what day I was advised, so I don't --

7 Q. So you don't know.

8 A. I don't know.

9 Q. Okay. So yesterday you told the jury that in 2014 you  
09:11 10 were a consultant for My Big Coin; is that correct?

11 A. Yes, sir.

12 Q. And you said that you were not a rich man in 2014.

13 A. No, sir.

14 Q. You knew that My Big Coin was risky and that money would  
15 be tight.

16 A. Yes, sir.

17 Q. I believe you testified that you told your wife about  
18 that, you were candid with her, that it wasn't going to be some  
19 big money venture.

09:11 20 A. Yes, sir.

21 Q. You also testified that the email address  
22 gmark39@gmail.com belongs to you.

23 A. It does, sir.

24 Q. And you testified that you talked to Peter Bell about  
25 investing in My Big Coin.

1 A. Yes, sir.

2 Q. But you didn't see Peter Bell testify, right?

3 A. No, sir.

4 Q. Okay. So while you just testified that in 2014 you were  
5 not a rich man and you thought this was a risky venture --

6 A. Yes, sir.

7 Q. -- do you recall telling Peter Bell in 2014 that My Big  
8 Coin had made you a billionaire?

9 A. No, sir.

09:12 10 Q. You're saying --

11 A. You're asking me if I recall telling him that?

12 Q. Did you ever tell that to him?

13 A. I can't imagine. My answer would be no.

14 Q. Right. Because that would be false if you told him that,  
15 right?

16 A. Had made me a billionaire, which means I'm already a  
17 billionaire, no.

18 Q. In 2014 you weren't a billionaire, right?

19 A. No, sir.

09:12 20 Q. And you weren't on the board of directors of My Big Coin.  
21 You were just a --

22 A. There was no board of directors.

23 MR. MARKHAM: Permission to approach, your Honor.

24 THE COURT: You may.

25 BY MR. MARKHAM:

1 Q. This was an exhibit marked by defense counsel yesterday as  
2 Exhibit RR for identification. Can you just flip to the very  
3 last page?

4 A. Yes, sir.

5 Q. Do you see there's a message there, it says, From Mark  
6 Gillespie gmark39@gmail.com, that's you?

7 A. Yes, sir.

8 Q. And the date is December 2014?

9 A. It is.

09:13 10 Q. Subject line: Three money signs.

11 A. Three money signs. Oh, I'm sorry, yes.

12 Q. And it's to Peter Bell?

13 A. It is.

14 Q. Okay. Do you see in this email where you say, Confirmed.  
15 I'm on the BOD with a 225k base?

16 A. Right.

17 Q. Well, you just told this jury you were a consultant in  
18 2014 and there was no board of directors?

19 A. That's correct.

09:13 20 Q. So why are you telling Peter Bell, an investor, that  
21 you're confirmed on the board of directors?

22 A. Because I was advised that I will be on the board of  
23 directors.

24 Q. Well, no, you say here, Confirmed, I am on the board of  
25 directors.

1 A. Yes.

2 Q. And so you're telling him here that even though -- you're  
3 telling him here that you're confirmed on the board of  
4 directors --

5 A. Right.

6 Q. -- and you just told this jury that there was no board of  
7 directors in 2014?

8 A. Correct.

9 Q. Okay. So were you lying to him here?

09:14 10 A. Am I lying to Peter Bell?

11 Q. Well, you told Peter Bell that you were confirmed on the  
12 board of directors?

13 A. Yes.

14 Q. And your testimony today is that in reality there was no  
15 board of directors?

16 A. That is correct.

17 Q. Okay. And then you see in the third line, I am told I am  
18 worth about 1 billion.

19 A. Yes.

09:14 20 Q. Okay. So you were telling your wife that you weren't  
21 going to have money and that you knew this was risky, but then  
22 you go around telling investors that you're worth about 1  
23 billion now because you're working with My Big Coin?

24 A. Yes.

25 Q. The defendant told you he had an elite deal with

1 MasterCard, correct?

2 A. He had no lead deal? I don't understand your question,  
3 I'm sorry.

4 Q. Did the defendant ever tell you that he had, quote, an  
5 elite deal with MasterCard?

6 A. Elite deal, yes.

7 Q. And did the defendant also tell you that he had a banking  
8 license?

9 A. I don't recall ever hearing that.

09:15 10 Q. Okay.

11 MR. MARKHAM: Can you pull up Exhibit 32, please.

12 Can you zoom in on the bottom email from Mark  
13 Gillespie.

14 And highlight number 3.

15 Q. So this is an email admitted into evidence.

16 Do you see under number 3 you say to a group of  
17 investors, that's in the "To" line, for ita ginvetors, you say,  
18 Randall Crater has been awarded a banking license. He is  
19 highly vetted.

09:16 20 A. Yes, I see that.

21 Q. So the defendant told you that?

22 A. I don't know who told me that.

23 Q. So are you saying you made this up?

24 A. I don't know who delivered the message to me that Randall  
25 had a banking license.

1 Q. Let's stop. Yes or no, did you, when you sent this email  
2 to another group of investors --

3 A. Right.

4 Q. -- were you making things up again --

5 A. No, sir.

6 Q. -- or did someone tell you that?

7 A. Someone told me that, sure.

8 Q. So someone told you that Randall Crater had a banking  
9 license?

09:16 10 A. Yes.

11 Q. Are you aware that Randall Crater doesn't have a banking  
12 license?

13 A. No, I'm not.

14 Q. And you weren't aware when you sent that message, right?

15 A. I'm aware that somebody told me he had a banking license.

16 Q. Okay. And you're telling me you don't remember Randall  
17 Crater telling you that, it could have been someone else?

18 A. That's correct.

19 Q. Let's go to number 5, please. Highlight that.

09:16 20 It says, Randall Crater has an elite deal with  
21 MasterCard. He is highly vetted.

22 A. Yes, sir.

23 Q. And you just testified the defendant did tell that you  
24 one, right?

25 A. Yes, sir.

1 Q. So he told you he had an elite deal with MasterCard.

2                   Are you aware the defendant did not have an elite deal  
3 with MasterCard or any deal with MasterCard?

4 A. No, I'm not aware of that at all.

5 Q. So you weren't aware when you sent this email either?

6 A. What's the date?

7                   I believe I was aware he had a deal with MasterCard.

8 Q. Right. So someone told you that he had a deal with  
9 MasterCard and you just testified that that someone was the  
09:17 10 defendant.

11 A. No, that's not what I'm saying, sir.

12 Q. You just told this jury that the defendant told you he had  
13 an elite deal with MasterCard?

14 A. Yes.

15 Q. Okay.

16                   MR. MARKHAM: Can we go to the top of this message,  
17 please.

18                   Scroll up.

19                   Now, you say you don't remember whether the defendant  
09:17 20 told you he had a banking license.

21 A. Right.

22 Q. But you do remember he told you about the MasterCard deal.

23 A. Yes.

24 Q. You forward this email to Randall Crater, and do you see  
25 what he says here, Looks great.

1 A. I do.

2 Q. And that's because you were writing this to him for his  
3 approval because you were sending it to investors.

4 A. Yes, sir.

5 Q. The defendant told you that My Big Coin was a  
6 cryptocurrency backed by gold?

7 A. Yes, sir.

09:18 8 Q. And the defendant told you that My Big Coin had an

9 exchange website where people could buy and sell their coins,  
10 right?

11 A. Yes, sir.

12 MR. MARKHAM: Can you pull up 15A.

13 Q. This is an exhibit that was shown to you yesterday.

14 MR. MARKHAM: Can you just zoom in on the bottom left.

15 Yeah, How it Works.

16 Q. So under "How it Works," it says, Using MBC, exchange MBC  
17 on an exchange market.

18 The defendant told you people could do that, right?

19 A. Yes.

09:18 20 Q. Okay.

21 MR. MARKHAM: Can you bring up 7G.

22 And can you zoom in on the middle there where it says,  
23 Sell My Big Coin, select a currency.

24 Q. Have you ever seen the My Big Coin exchange website?

25 A. I have, sir.

1 Q. And here where it says that you can sell My Big Coin and  
2 then you can transfer it using this website for another  
3 currency --

4 A. Yes, sir.

5 Q. -- Randall Crater told you that people could really do  
6 that, right?

7 A. Yes, sir.

8 Q. That's because this was a currency exchange.

9 A. A currency exchange?

09:19 10 Q. Yes. It says you can sell My Big Coin --

11 A. Right.

12 Q. -- and that you can select a currency to buy. So this is  
13 a place where you can go to exchange currency.

14 MR. LOPEZ: Objection.

15 THE COURT: Well, sustained as to the form of this  
16 question.

17 BY MR. MARKHAM:

18 Q. Was this website telling people -- or did you believe that  
19 this website could be used to sell My Big Coin in exchange for  
09:19 20 other currency?

21 MR. LOPEZ: Objection.

22 THE COURT: Sustained as to form. You can rephrase.

23 BY MR. MARKHAM:

24 Q. Could this website be used to exchange My Big Coin for  
25 other currency like it's advertising?

1 MR. LOPEZ: Objection.

2 THE COURT: Overruled.

3 A. I'm not certain. Sitting here right now, I'm not  
4 positive.

5 Q. Okay. So you were selling this product for multiple years  
6 getting people to invest?

7 A. No, sir.

8 Q. You never got people to invest?

9 A. My friends and only my friends.

09:20 10 Q. Right --

11 A. I sold nothing.

12 Q. So you got your friends to invest, that's what you're  
13 saying?

14 A. Yes.

15 Q. And you told Peter Bell you were a billionaire.

16 A. Yes.

17 Q. And you told him you were on the board of directors.

18 A. Yes.

19 Q. And during that entire time, you didn't even know if the  
09:20 20 My Big Coin Exchange that was being advertised worked?

21 A. I knew the exchange worked.

22 Q. Okay. So you knew that this exchange worked?

23 A. Absolutely.

24 Q. And the defendant told you it worked, right?

25 A. Well, I used it, all my friends had used it.

1 Q. Oh, so you had used this exchange to exchange My Big Coin  
2 for currency?

3 A. No. I had no need to exchange. I bought and sold coin  
4 peer-to-peer.

5 Q. I understand.

6 MR. MARKHAM: So can you zoom in on the bottom part,  
7 please.

8 Q. So what you're saying is you know for a fact that you  
9 could sell and buy My Big Coin using this trading mechanism  
09:21 10 here?

11 A. Yes.

12 Q. The defendant told you he could personally stop the sale  
13 of My Big Coins on this exchange, right, if he needed to?

14 A. I don't recall him ever telling me that.

15 MR. MARKHAM: Can you bring up Exhibit 13B.

16 Can you just zoom in on the top email.

17 Q. This is an email about exchanging My Big Coins. Do you  
18 see what Randall Crater says, I did it myself, so I know it got  
19 done. I stopped the sale of the coins and refunded your  
09:21 20 account. It may take a little while for it to update but I did  
21 it myself.

22 Did I read that correctly?

23 A. You did, sir.

24 Q. And your e-mail is on the "cc" line there, right, that's  
25 Mark Gillespie?

1 A. Yes. Now I remember, yes, sir.

2 Q. The defendant paid you money, right?

3 A. Yes, sir.

4 Q. Thousands of dollars?

5 A. Yes, sir.

6 Q. More than one occasion he sent you money?

7 A. Yes, sir.

8 Q. In some cases, it appeared from an email you looked at  
9 yesterday that he specifically paid you money to write press  
09:22 10 releases?

11 A. No, sir.

12 MR. MARKHAM: Can you bring up Exhibit 11D. Zoom in.

13 Q. And in the middle there, this is from you to the  
14 defendant. You say, Would you consider not paying me the 700  
15 plus I have earned at the 3 percent and not paying me for the 6  
16 PRs?

17 Are you saying "PRs" doesn't stand for press release  
18 in this email?

19 A. It does, sir.

09:23 20 Q. So you had written press releases?

21 A. Yes, sir.

22 Q. And you're asking him, instead of paying you for the six  
23 PRs, to give you some sort of ownership stake.

24 A. Yes, sir.

25 Q. But you just testified that he never paid you to write

1 press releases?

2 A. That's correct, sir.

3 Q. When you solicited people to invest in My Big Coin, your  
4 friends, didn't you also direct those people to pay the money  
5 to Randall Crater's bank account?

6 A. Greyshore initially, yes, sir.

7 Q. Are you aware that it's been stipulated in this case that  
8 the defendant is the CEO of Greyshore?

9 A. Yes.

09:23 10 Q. Are you aware that the defendant had control of the  
11 Greyshore account?

12 A. I am, sir.

13 Q. Were you aware that the Greyshore account wasn't actually  
14 in the defendant's name but in the name of his sister?

15 MR. LOPEZ: Objection.

16 THE COURT: Sustained as to this question.

17 BY MR. MARKHAM:

18 Q. Okay. So you solicited Jay Byrd to invest; is that right?

19 A. Never, no, sir.

09:24 20 Q. Never?

21 A. Never.

22 Q. But you did solicit Peter Bell to invest?

23 A. My friend, yes.

24 Q. Yes, your friend Peter Bell.

25 A. Correct.

1 Q. And you're aware that those wire transfers went to a bank  
2 account that the defendant controlled?

3 A. Absolutely.

4 MR. MARKHAM: No further questions, your Honor.

5 THE COURT: Thank you.

6 Redirect, Mr. Lopez.

7 REDIRECT EXAMINATION

8 BY MR. LOPEZ:

9 Q. Mr. Gillespie, you said you bought and sold coin on a  
09:24 10 peer-to-peer exchange?

11 A. I did, sir.

12 Q. Can you describe the process by which that happened? What  
13 did you have to do?

14 A. First you must have My Big Coin in your personal account.  
15 From that point, you would move X number of coins that you had  
16 determined you wanted to sell to the exchange. Once they were  
17 on the exchange, you would stipulate the price that you  
18 personally wanted to sell those for. Those -- you and other  
19 people that were selling coins, they were visible to other  
09:25 20 people signed in on the exchange -- and I'm doing this from  
21 memory, so please bear with me, it's been a long time. Those  
22 people could see what was for sale. If they determine they  
23 wanted to buy Joe Blow's coins for \$29 a coin, they can contact  
24 him, discuss how to pay, and move on from there.

25 It's my understanding that no monies passed through

1 our exchange. That's why on our website it stipulates clearly  
2 this is a peer-to-peer exchange. The only monies that I knew  
3 or believed we, "we," received was from our fee. Just like a  
4 fee PayPal has. And if memory serves, that fee was 2.5  
5 percent, and I think it was less earlier when we first started  
6 and it was raised a little bit.

7 Q. So no money actually passed through the exchange?

8 MR. MARKHAM: Objection.

9 THE COURT: Sustained as to form.

09:26 10 You can rephrase.

11 BY MR. LOPEZ:

12 Q. Did any money pass through the exchange?

13 A. I saw no evidence of that. I don't know how it would.

14 MR. LOPEZ: Thank you.

15 THE COURT: Recross?

16 MR. MARKHAM: Yes, your Honor.

17 RECROSS-EXAMINATION

18 BY MR. MARKHAM:

19 Q. The defense counsel just asked you if any money passed  
09:26 20 through the exchange.

21 A. Yes, sir.

22 Q. Are you aware of whether any of the money passed through  
23 the defendant's bank account in making those trades?

24 A. I am not.

25 Q. So. So you don't know whether the defendant ever bought

1 and sold coin that was being sold on that exchange?

2 A. Do I know if Randall bought coin on that exchange. I have  
3 no clue.

4 Q. So if you saw a check from him that said "coin buyback"  
5 from My Big Coin, that wouldn't surprise you, right?

6 A. It wouldn't surprise me? I'm sorry, I'm not  
7 understanding.

8 Q. So you don't know whether the defendant, Randall Crater,  
9 this person you worked with for a couple of years, ever bought  
09:27 10 or sold My Big Coin?

11 A. I can't think of any situation off the top of my head, no.

12 Q. Sir, do you remember the email I just showed you where the  
13 defendant went into the exchange and said, I got it done?

14 A. Oh, wait a minute, okay. Yeah, I'm sorry. I see what  
15 you're saying. Yeah, I think I might know of one example of  
16 that, possibly.

17 Q. Okay.

18 MR. MARKHAM: Can you bring up Exhibit 7G again.

19 Okay. Zoom in on that part in the middle that says,  
09:28 20 "Sell My Big Coin" and has arrows and "select a currency."

21 Q. I would just like one straight answer.

22 MR. LOPEZ: Objection.

23 THE COURT: Yeah, no commentary.

24 BY MR. MARKHAM:

25 Q. Was this a fabrication or could you actually do it?

1                   MR. LOPEZ: Objection.

2       A. I personally -- I'm sorry, do what? Could you be more  
3       specific?

4                   THE COURT: So, counsel, sustained as to that  
5       question. And you can ask another question.

6                   And, Mr. Gillespie, wait, if there's an objection,  
7       before answering.

8                   THE WITNESS: Yes, ma'am.

9                   THE COURT: Mr. Markham.

09:28 10 BY MR. MARKHAM:

11       Q. Was this statement on the My Big Coin website accurate,  
12       that you could sell My Big Coin and then select a currency to  
13       buy? Yes or no?

14       A. I don't know is my answer.

15       Q. And even though you didn't know whether this was accurate,  
16       you had no problem selling this stuff to your own friends?

17       A. Selling this stuff -- could you be more specific, please?

18       Q. Yeah. Selling My Big Coin to Peter Bell, you didn't have  
19       any problem doing that, even though you didn't even know if  
09:29 20 this was true?

21       A. I would have no problem at all doing that.

22       Q. You would have no problem at all selling people something  
23       that you didn't know whether this product was real.

24       A. Well, first of all, I wasn't selling anything, is number  
25       one. And number two, if it's on there, based on my personal

1       experience with a couple of years at this point with this  
2       company, if they said they could do it, I would absolutely  
3       believe they could do it.

4       Q.     Right, anything that's said on these websites, you would  
5       believe that's absolutely true and then go tell other people,  
6       right?

7       A.     Well, I knew for a fact -- let me be very careful here.

8                   I knew from my personal experience, everything I  
9       personally did and my friends did on this website worked. So  
09:29 10       if I focus on one thing that I personally hadn't used and  
11       didn't have personal experience with, I would think everything  
12       else works, so, yeah, this works.

13       Q.     Right, and that's because you were on the board of  
14       directors, right?

15       A.     No, sir.

16       Q.     Right. But you told Peter Bell you were on the board of  
17       directors?

18       A.     No, sir, that's really not what I told Peter Bell.

19       Q.     Please take that email I just brought you.

09:30 20       A.     I understand.

21                   THE COURT: Counsel, is there a question?

22                   MR. MARKHAM: Yes, your Honor.

23       BY MR. MARKHAM:

24       Q.     Did you write to Peter Bell, Confirmed. I am on the BOD  
25       with a 225K base?

1 A. Yes, sir, I wrote that.

2 Q. You wrote that.

3 A. Yes.

4 Q. You also said, I am told now I am worth 1 billion?

5 A. Yeah.

6 Q. And those things aren't true.

7 A. The way I wrote it, no.

8 MR. MARKHAM: No more questions, your Honor.

9 THE COURT: Thank you, sir. You're excused.

09:30 10 THE WITNESS: Thank you.

11 THE COURT: You can leave those there, I think.

12 Thanks.

13 MR. LOPEZ: Your Honor, can I get the next witness?

14 THE COURT: I think so. I think that makes sense.

15 MR. LOPEZ: It will be Michael Singleton.

16 THE COURT: Thank you.

17 MICHAEL SINGLETON, having been duly sworn by the  
18 Clerk, was examined and testified as follows:

19 THE CLERK: Thank you. Please be seated.

09:31 20 THE COURT: Good morning, sir.

21 THE WITNESS: Good morning.

22 THE COURT: Sir, you can remove your mask. We're far  
23 enough away from you. Thank you.

24 DIRECT EXAMINATION

25 BY MR. LOPEZ:

1 Q. Good morning.

2 A. Good morning.

3 Q. Would you please introduce yourself to the jury and spell  
4 your last name.

5 A. My name is Michael Singleton, spelling S-i-n-g-l-e-t-o-n.

6 THE COURT: Thank you.

7 BY MR. LOPEZ:

8 Q. And where are you from, Mr. Singleton?

9 A. Houston, Texas.

09:32 10 Q. And are you here pursuant to a subpoena?

11 A. Yes, sir.

12 Q. And how far did you go in school?

13 A. Two years of college.

14 Q. And do you know Mr. Crater?

15 A. Yes, sir.

16 Q. How did you come to know Mr. Crater?

17 A. I was introduced to him in 2013 by an attorney by the name  
18 of Marc Ariza.

19 Q. And how did you know Attorney Ariza?

09:32 20 A. I had a trust, family trust put together, and Mr. Ariza  
21 provided that service.

22 Q. Are you currently employed?

23 A. Self-employed.

24 Q. And what do you do?

25 A. I do sales. Actually, I have a non-written agreement with

1 an OEM manufacturer and I sell electronic consumer goods.

2 Q. Directing your attention back to 2014, were you  
3 self-employed at that time?

4 A. Yes, sir.

5 Q. And what were you doing at that time?

6 A. Consulting.

7 Q. What type of consulting?

8 A. Helping small companies that were in a position to go  
9 public.

09:33 10 Q. And what was the name of your company?

11 A. Tobias Interest LLC.

12 Q. And for how long had you been working with that name in  
13 that industry?

14 A. I had been working with that name for about three years  
15 basically.

16 Q. And how long had you been doing consulting work?

17 A. Started in 2004.

18 Q. Now, prior to My Big Coin, had you ever worked with  
19 Mr. Crater?

09:34 20 A. No, sir.

21 Q. So this was your first --

22 A. Yes, sir.

23 Q. First time working with him?

24 A. Yes.

25 Q. And did you work with anyone else at My Big Coin?

1 A. No.

2 Q. Did you know whether or not Mr. Crater had a partner in My  
3 Big Coin?

4 A. Yes, there was -- I was introduced to John Roche, who was  
5 considered to be a partner.

6 Q. And what was Mr. Roche's position, if you know?

7 A. He was the CEO of the company.

8 Q. And what does "CEO" stand for?

9 A. Chief executive officer.

09:34 10 Q. Okay. Do you know whether or not Mr. Crater had any  
11 official position with My Big Coin?

12 A. No.

13 Q. Okay. Now, prior to your work for My Big Coin, did you  
14 require any type of an agreement to be signed?

15 A. Yes. I discussed a consulting agreement, but initially  
16 we, you know, kind of needed to find a securities attorney.

17 Q. So you started working before you had an actual agreement?

18 A. Yes, yes.

19 Q. And what was your understanding as to what you were hired  
09:35 20 to do?

21 A. Well, basically because I had a better understanding of  
22 the industry and Mr. Crater didn't, I was hired to actually be  
23 the go-between between the securities attorney and the company.

24 Q. And was there a plan on how to take the company public?

25 A. Yes. To find a securities attorney who could actually do

1 an IPO or file an S-1 registration.

2 Q. What is an S-1 registration?

3 A. An S-1 registration is the document that you file with the  
4 SEC that makes your company more transparent and it attaches  
5 you to -- once it's approved, you start becoming a reporting  
6 company to the SEC.

7 Q. And after you started working for My Big Coin, did you  
8 find such an attorney?

9 A. Yes, sir.

09:36 10 Q. And what was that attorney's name?

11 A. Adam Tracy.

12 Q. And was Adam -- was Attorney Tracy hired by My Big Coin?

13 A. Yes.

14 Q. Now, at some point did you enter into a more formal  
15 relationship with My Big Coin?

16 A. Yes, I had a consulting agreement that stated the things  
17 that I would do and what I would be compensated for doing those  
18 things.

19 Q. And who signed that consulting agreement on behalf of My  
09:36 20 Big Coin?

21 A. If I had to go back, I think the first one may have been  
22 signed by Randall, and the second one was signed by John Roche.

23 Q. Now, can you just briefly describe to the jury what your  
24 prior experience was in taking companies public?

25 A. Well, I had a mentor who passed away that I worked with

1 and so my experience primarily was actually had a company that,  
2 as far as coming up with the idea. I came up with the idea.  
3 My mentor put the package together. It was called Blue Diamond  
4 Ventures and took that company public.

5 Q. Now, did Randall or John Roche or My Big Coin pay you for  
6 your efforts?

7 A. There was an initial payment that I was paid by Adam  
8 Tracy.

9 Q. And why were you paid by Adam Tracy?

09:37 10 A. Actually, I negotiated with Adam Tracy on top of his fee  
11 for a fee for myself because I didn't have a written agreement  
12 in place at that time.

13 Q. Okay. So this was before you had the consulting  
14 agreement?

15 A. Yes.

16 Q. And do you know whether or not Mr. -- or Attorney Tracy  
17 was paid by anyone?

18 A. He was paid by Randall.

19 Q. And do you recall how much Randall paid him?

09:38 20 A. I think the initial fee was \$25,000, somewhere in that  
21 area.

22 Q. And of that \$25,000, how much were you paid?

23 A. \$10,000.

24 Q. Now, at some point was Attorney Tracy hired and entered  
25 into an engagement letter?

1 A. Yes.

2 Q. And do you recall who signed that engagement letter?

3 A. Randall signed that engagement letter.

4 Q. Okay. So how did it come to pass that Attorney Tracy was  
5 selected to work with My Big Coin?

6 A. Well, when Randall contacted me about possibly taking this  
7 company public, my thought was not for them to do a reverse  
8 merger but to actually do the S-1 so it would be more  
9 transparent. So I started looking for a securities attorney  
09:39 10 that actually specialized in that, and I think in my searches,  
11 you know, going through Google, I guess the algorithm must have  
12 picked up, a couple of days later I got like a pop-up and it  
13 was Adam who was advertising as an attorney who did S-1  
14 registrations.

15 Q. So after doing your research, did you contact Attorney  
16 Tracy?

17 A. Yes.

18 Q. Did you speak with him?

19 A. Yes.

09:39 20 Q. Did he confirm that he did, in fact, have expertise in S-1  
21 filings?

22 A. Yes.

23 Q. Did you tell him at that time that My Big Coin was a  
24 cryptocurrency company?

25 A. No --

1 MR. MOORE: Objection, hearsay.

2 THE COURT: Well, counsel, what's your response to the  
3 objection here? Do you want to rephrase?

4 MR. LOPEZ: I'll rephrase.

5 THE COURT: Thank you.

6 BY MR. LOPEZ:

7 Q. What, if anything, did you tell Attorney Tracy about My  
8 Big Coin?

9 MR. MOORE: Same objection.

09:40 10 THE COURT: Well, sustained.

11 BY MR. LOPEZ:

12 Q. Did you know that My Big Coin was a cryptocurrency  
13 company?

14 A. Yes, but I didn't know what it was.

15 Q. At that time were you aware of any cryptocurrency company  
16 that had been approved by the Securities and Exchange  
17 Commission to go public?

18 A. No.

19 Q. Do you know whether or not there's any cryptocurrency  
09:40 20 companies today that have been --

21 A. To my understanding, no.

22 Q. Okay.

23 So you hire Adam Tracy. What happens next?

24 A. Well, after the engagement letter, Adam and Randall had a  
25 conference call which would be what the next steps would be.

1 So there was quite a bit of documentation that needed to be  
2 collected by Adam to be able to get the company in a structured  
3 position to take the next steps.

4 Q. And who was acting on behalf of My Big Coin in gathering  
5 that information?

6 A. Initially I would have to say eventually John Roche came  
7 into the picture and that would have been his responsibility.

8 Q. Okay. And at some point did the documentation that  
9 Attorney Tracy required or requested, was it sent to him?

09:41 10 A. At some point, yes.

11 Q. How long did it take for that to happen?

12 A. I'd say we were probably about three to four months into  
13 the engagement when that happened.

14 Q. And just as a point of reference, what year and month are  
15 we talking about when you were hired?

16 A. This would have been in 2014.

17 Q. Early 2014, late 2014?

18 A. Probably mid 2014.

19 Q. So three or four months later we're talking November,  
09:42 20 October of 2014?

21 A. Probably closer to October.

22 Q. Closer to October. Okay.

23 So now October 2014, Attorney Tracy is sent the  
24 documentation that he needs in order to take the next steps for  
25 the S-1 filing.

1 A. Yes.

2 Q. And what happens then?

3 A. The next step would have been the company -- so when you  
4 file an S-1 registration, you have to be audited by a  
5 sanctioned CPA or auditing firm sanctioned by the SEC. And so  
6 the next step was to do the preparation for an audit.

7 Q. Let me just take a step back.

8 Do you know whether or not the S-1 registration was  
9 actually filed by Attorney Tracy with the SEC?

09:43 10 A. No.

11 Q. So because of your experience, you knew that the next step  
12 was the company to be audited?

13 A. Yes.

14 Q. Okay. And was the company audited?

15 A. There was documentation prepared for an audit, yes.

16 Q. And were you involved in that audit at all?

17 A. I worked closely with John Roche in getting the  
18 documentation prepared for the audit.

19 Q. Do you remember what the name of the auditing firm was?

09:43 20 A. John Scrudato.

21 Q. And was John Scrudato paid to audit the company?

22 A. Yes.

23 Q. And did he produce an audit report that was sufficient to  
24 submit to the SEC?

25 A. I don't recall.

1 Q. Okay. What happened next?

2 A. Kind of became a standstill per se, and months went on  
3 where there were promises of Adam Tracy that never transpired.

4 Q. And how long did that go on for?

5 A. I would say we were in the eight to 12 months of a  
6 constant, you know, we're going to get it done, we're going to  
7 get it done, we're going to get it done, and eventually he came  
8 back and stated that he wouldn't be able to take My Big Coin  
9 public.

09:44 10 MR. LOPEZ: Can you bring up 11II, Mr. Sweeney.

11 MR. SWEENEY: Scott, do we have a number on it?

12 MR. LOPEZ: I don't. It's already admitted.

13 (Discussion off the record.)

14 BY MR. LOPEZ:

15 Q. Do you see Exhibit 11II in front of you?

16 A. Yes.

17 Q. And do you see that you're the one that drafted that  
18 email?

19 A. Yes.

09:46 20 Q. And it was to Adam Tracy, Randall Crater -- who's Jeremy  
21 Markham?

22 A. He worked at Adam's firm.

23 Q. Okay. John Roche?

24 A. Yes.

25 Q. And then you also cc'd yourself.

1 A. Yes.

2 Q. And it looks like there's a list of attachments there.

3 A. Yes.

4 MR. LOPEZ: Can you enlarge the text of the message.

5 Q. Adam, the documents are completed with the exception of  
6 the PFSF due diligence docs and the indemnification docs. The  
7 indemnification docs will be signed and forwarded to you this  
8 afternoon. John is on top of the PFSF docs and set up a  
9 corporation.

09:46 10 What is the "PFSF due diligence docs"?

11 A. Okay. So once it was determined that he couldn't do an  
12 S-1, taking My Big Coin public, Adam started looking for  
13 additional avenues, and if I recall, PFSF was a shell company  
14 that he found.

15 Q. Okay. And what was your understanding of what Attorney  
16 Tracy was trying -- of what Attorney Tracy was trying to  
17 accomplish?

18 A. So when this came into play, it was a process of doing a  
19 reverse merger into this particular shell and then filing the  
09:47 20 S-1 after that.

21 MR. LOPEZ: If you could just, Joe, go to the first  
22 page, the next page.

23 Q. It looks like this was a stock option and restricted stock  
24 plan. That was one of the documents attached?

25 A. Yes.

1 Q. And who drafted that plan?

2 A. These were documents that came from Adam.

3 Q. Okay. And let's go back to the first page.

4 So the other documents that were attached appear to be  
5 an MBC shareholder UWC stock plan. What does "UWC" stand for?

6 A. I don't recall.

7 Q. Okay. MBC Roche employment agreement, MBC board of  
8 director UWC Tobias, was that something related to your  
9 company?

09:48 10 A. Yes.

11 Q. And so on.

12 And so this exhibit was an effort to take the next  
13 steps?

14 A. Yes.

15 MR. LOPEZ: Your Honor, may I approach the witness?

16 THE COURT: You may.

17 BY MR. LOPEZ:

18 Q. Sir, do you recognize this document?

19 MR. LOPEZ: You can take down 11II.

09:49 20 A. Yes.

21 Q. And what is it?

22 A. It's a press release.

23 Q. Okay. And -- well, it's an email from you to Mr. Crater,  
24 right?

25 A. Yes.

1 Q. And it references a press release.

2 A. Yes.

3 Q. And turning to the second page, is that a press release?

4 A. Yes.

5 Q. And why were you sending Mr. Crater a press release?

6 A. So Attorney Tracy, they talked about doing a press release  
7 for Attorney Tracy, so he sent the structure of this press  
8 release and informed Matt of how we should create it. So  
9 basically we used it PR News to get it out to the public.

09:50 10 Q. Were you involved in drafting or editing this press  
11 release?

12 A. Yes.

13 Q. Looking at the email and the press release, is that a fair  
14 and accurate copy of the email and press release, as you  
15 recall?

16 A. Yes.

17 MR. LOPEZ: Your Honor, at this point I move to admit.

18 THE COURT: Any objection?

19 MR. MOORE: No objection, but we would ask for a  
09:51 20 limiting instruction about the reason that this is being  
21 admitted for in relation to the truth of the matter asserted,  
22 your Honor, for the press release portion.

23 THE COURT: Counsel, any objection to that?

24 MR. LOPEZ: No, your Honor.

25 THE COURT: Counsel, let me hear you on Whisper Tech

1 for a moment.

2 I think this will be, Ms. Hourihan, 46.

3 THE CLERK: Yes.

4 (Exhibit 46 received into evidence.)

5 (Discussion at sidebar.)

6 THE COURT: Counsel.

7 MR. MOORE: Yes, your Honor.

8 THE COURT: Mr. Moore, what's the limiting instruction  
9 you want here?

09:52 10 MR. MOORE: Just at the top of this makes various  
11 claims about Harmonie International --

12 THE COURT: I'm having a hard time hearing you.

13 MR. MOORE: Sorry, your Honor. Is that any better?

14 THE COURT: That's better.

15 MR. MOORE: Just at the top of this it makes various  
16 claims about Harmonie International and gold backing. So my  
17 understanding is that this is being admitted for the effect on  
18 the listener and not for the truth of any of these assertions.  
19 That's the instruction we're asking for, your Honor.

09:52 20 THE COURT: Understood.

21 Mr. Lopez, do you need to be heard?

22 MR. LOPEZ: Your Honor, I -- I'm just -- yes, it's  
23 hearsay, but this is his own personal knowledge that he's  
24 testifying to, because he reviewed it. He believed it to be  
25 accurate. So I don't understand why he can't testify to it.

1                   THE COURT: No, I understand it's coming in. A  
2 limiting instruction is about the hearsay as to the statements  
3 in this document.

4                   MR. LOPEZ: I understand. If you want -- I'm okay  
5 with a limiting instruction.

6                   THE COURT: Okay, thank you.

7                   (End of discussion at sidebar.)

8                   THE COURT: As I said, this can be admitted as 46.

9                   Jurors, this exhibit, which has some attachments, is  
09:53 10 being offered for the effect on the listener and not for the  
11 truth of the matters asserted in the attachment.

12                   That's 46.

13                   It can be published.

14                   MR. LOPEZ: Can you put it on the ELMO, Ms. Hourihan.

15                   BY MR. LOPEZ:

16                   Q. All right. So this is the email that you sent?

17                   A. Yes.

18                   Q. And the second one down says -- it's a news release,  
19 Revolutionary Cryptocurrency Platform, My Big Coin announces  
09:54 20 that the company is negotiating to become the first  
21 cryptocurrency company to have its digital currency to be  
22 wholly backed by gold. Correct?

23                   And the date of this email is August 4, 2014.

24                   A. Yes.

25                   Q. So, to your knowledge, was the company backed by gold

1 prior to this date, August 4, 2014?

2 A. No.

3 Q. Okay.

4 Now, let me turn to the second page.

5 And this is the press release?

6 A. Yes.

7 Q. And you reviewed this press release?

8 A. Yes.

9 Q. Did you believe it to be accurate at the time that you  
09:55 10 reviewed it?

11 A. That there were negotiations, yes.

12 Q. And did you edit it?

13 A. I did, but it was okayed by Attorney Adam Tracy.

14 Q. Okay. So Adam Tracy had the final approval?

15 A. Yes.

16 Q. In any event, this reads, August 4, 2014, MyBigCoin.com,  
17 Inc., the corporate parent of the online cryptocurrency  
18 platform and virtual wallet website www.MyBigCoin.com, today  
19 announces that the company is now entering into final  
09:56 20 negotiations with Harmonie International to obtain a committed  
21 backing for its cryptocurrency from Harmonie International of  
22 up to \$100 million in the lawful commodity of gold in an amount  
23 of approximately 2,231 kilograms. If successful in its  
24 negotiations, My Big Coin would become the first company whose  
25 business model focuses entirely on digital currencies and the

1       peer-to-peer transfer of digital currencies to have its  
2       cryptocurrency wholly backed by gold.

3                   Did I read that correctly?

4       A.    Yes.

5       Q.    And it goes on to say that the company has engaged an  
6       attorney, Adam Tracy, and his securities firm.

7       A.    Yes.

8       Q.    And the company's expectation is to have its common stock  
9       listed on the over-the-counter marketplace.

09:57 10      A.    Yes.

11      Q.    Was that the plan in August of 2014?

12      A.    To my knowledge, yes.

13      Q.    Okay. And then below that, there's what's called a safe  
14       harbor statement.

15      A.    Yes.

16      Q.    And toward the middle of that paragraph, it talks about  
17       forward-looking statements include expressions such as  
18       "believe," "anticipate," "expect," "estimate," "intend," "may,"  
19       "plan," "predict," "will," and similar terms and expressions.

09:57 20                   Did you, sir, based on your experience, consider this  
21       press release a forward-looking statement?

22      A.    No.

23      Q.    No, okay. Why not?

24      A.    When you say "forward-looking statement," can you define  
25       that?

1 Q. Well, it's just defined -- a forward-looking statement --

2 A. This part of the document was prepared by Attorney Tracy  
3 and he okayed this. So --

4 Q. So if I understand your answer, you don't believe this was  
5 a forward-looking statement because it was talking about  
6 negotiations that were ongoing at that point in time?

7 MR. MOORE: Objection, relevance.

8 THE COURT: Well, sustained as to form.

9 MR. LOPEZ: I'll move on, your Honor.

09:58 10 THE COURT: Thank you.

11 BY MR. LOPEZ:

12 Q. Are you familiar with a company called Harmonie  
13 International?

14 A. Yes.

15 MR. LOPEZ: Can you bring up just for the witness M1.

16 THE COURT: Just for the witness, yes.

17 BY MR. LOPEZ:

18 Q. Have you ever viewed the Harmonie International website?

19 A. Yes.

09:59 20 Q. And looking at what's been marked as M1, does that appear  
21 to be a copy of the Harmonie International website?

22 A. It's a picture that I've seen before.

23 Q. That you've seen before.

24 A. Yes.

25 Q. You recognize it?

1 A. Yes.

2 Q. And is that a fair and accurate copy of what you have seen  
3 before?

4 A. The picture, yes.

5 Q. Okay.

6 MR. LOPEZ: Your Honor, I would move to admit that.

7 THE COURT: Any objection to M1?

8 MR. MOORE: Objection on relevance grounds.

9 THE COURT: Well, given the testimony, overruled on  
10:00 10 that ground.

11 I think this is 46.

12 MR. LOPEZ: I believe so, your Honor.

13 THE CLERK: No.

14 MR. LOPEZ: No, 47.

15 THE COURT: 47, thank you.

16 (Exhibit 47 received into evidence.)

17 THE COURT: It may be admitted as 47.

18 MR. LOPEZ: Can you publish it to the --

19 BY MR. LOPEZ:

10:00 20 Q. Sir, what did you understand Harmonie International to be?

21 MR. MOORE: Objection.

22 THE COURT: In a word, counsel?

23 MR. MOORE: Foundation.

24 THE COURT: Well, sustained. You can lay the  
25 foundation.

1 BY MR. LOPEZ:

2 Q. Do you know what kind of company Harmonie International  
3 was?

4 A. It was presented to me as an oil and gas company.

5 Q. And this was their website.

6 A. I remember the picture. I don't totally remember the  
7 website.

8 Q. Okay.

9 MR. MOORE: Your Honor, based off of that answer, I  
10:01 10 would ask to reconsider the admission of this exhibit.

11 THE COURT: Okay. We'll take that up later.

12 Counsel, Mr. Lopez.

13 MR. LOPEZ: I'd like to show him another --

14 THE COURT: Well, we can take this one down.

15 MR. LOPEZ: Yes, we can take this one down.

16 Can you bring up M2, just for the witness.

17 THE COURT: Just for the witness yes.

18 BY MR. LOPEZ:

19 Q. Do you remember seeing this on Harmonie International's  
10:02 20 website?

21 A. I remember seeing this before, but I don't remember seeing  
22 it on the website.

23 Q. What do you mean you remember seeing it before?

24 A. I think John and Randall shared a copy of it with me.

25 Q. So you didn't actually see it on the website?

1 A. I don't recall seeing it on the website.

2 Q. Okay.

3 THE COURT: Just so the record is clear, the exhibit  
4 that you were shown before that was up on the screen  
5 previously, is that how you remember it as well?

6 THE WITNESS: The picture?

7 THE COURT: Yeah, the first one.

8 And can we go back to what was 47, don't publish it,  
9 just for the witness, Mr. Lopez.

10:02 10 MR. LOPEZ: Yes.

11 THE COURT: When you were asked about this one, had  
12 you seen it on the website?

13 THE WITNESS: I recall seeing this picture, but I  
14 think it was in a documentation that was presented.

15 THE COURT: You don't recall seeing it on a website?

16 THE WITNESS: No.

17 THE COURT: Mr. Lopez, you can move forward.

18 MR. LOPEZ: Your Honor, this is from the Wayback  
19 Machine, and we have a stipulation that --

10:03 20 THE COURT: I understand. I'll take that up with  
21 counsel separately.

22 MR. LOPEZ: All right.

23 THE COURT: Thank you.

24 MR. LOPEZ: Can I show him M3?

25 THE COURT: Yes, just for the witness.

1 BY MR. LOPEZ:

2 Q. Do you recall seeing this on Harmonie website?

3 A. No.

4 Q. At some point did you stop working for My Big Coin?

5 A. Yes.

6 Q. Approximately how long did you work for My Big Coin before  
7 you stopped working?

8 A. Through 2015.

9 Q. All right. And did you find out why you were no longer  
10:04 10 needed?

11 MR. MOORE: Objection.

12 BY MR. LOPEZ:

13 Q. If you know.

14 THE COURT: Overruled.

15 If you know.

16 A. I was disgruntled with Attorney Tracy in reference to the  
17 stalls and things that weren't transpiring, and when they came  
18 out with a new shell, Attorney Tracy convinced them that -- or  
19 Randall and John that moving forward it would be a lot easier  
10:04 20 for him to get his job done if I wasn't on the calls.

21 MR. LOPEZ: No further questions.

22 THE COURT: Thank you.

23 Counsel, just give me a moment just logistically here.

24 Mr. Moore, how long do you have approximately?

25 MR. MOORE: Less -- five to ten minutes, your Honor.

1 THE COURT: Okay.

2 (Discussion off the record.)

3 THE COURT: Mr. Lopez, just for your benefit, I had  
4 Ms. Hourihan reach out to the witness we're going to have  
5 electronically just to let him know we're delayed. I'm  
6 inclined to just to keep continuing, but if there's someone on  
7 your team that wants to send a message to him, that's fine.

8 MR. LOPEZ: Thank you, your Honor.

9 THE COURT: Mr. Moore, you can proceed.

10:05 10 CROSS-EXAMINATION

11 BY MR. MOORE:

12 Q. Do you know who Kim Benge is?

13 A. Say that name again.

14 Q. Do you know who Kim Benge is?

15 A. Yes.

16 Q. Who is she?

17 A. Randall's sister.

18 Q. All right. Are you aware that in 2014 that she was not  
19 working for My Big Coin?

10:06 20 A. No.

21 MR. MOORE: Can we bring up 11III.

22 Q. Do you see here in the attachments where it says "Benge  
23 Employment Agreement"?

24 A. Yes.

25 Q. All right. Do you know who drafted that Benge employment

1 agreement?

2 A. Mr. Tracy.

3 MR. MOORE: Can we go to page 16 of this attachment.

4 Q. Do you see here where it says, "Signed by Kim Benge"?

5 There's a little "s" with slashes and Kimberly Benge's name?

6 A. Yes.

7 Q. Do you know if she actually signed this document?

8 A. No.

9 Q. Do you know which bank account My Big Coin used?

10:07 10 A. No.

11 Q. So you don't know if the audit showed which bank account  
12 My Big Coin used?

13 A. I think it did show, but I don't remember the name of the  
14 bank.

15 Q. Did you know that money from My Big Coin was being  
16 transferred into a Greyshore account in the name of Kim Benge?

17 A. No.

18 Q. Do you know what happened to that money after it went into  
19 the account?

10:07 20 A. No.

21 Q. Randall Crater signed your initial consulting agreement  
22 with My Big Coin, correct?

23 A. Yes.

24 Q. And your communications about My Big Coin were with  
25 Randall Crater?

1 A. Randall Crater and John Roche.

2 Q. Okay. And Randall Crater was the person who paid Adam  
3 Tracy, correct?

4 A. Yes.

5 Q. And from that money that he paid Adam Tracy, you were  
6 paid, correct?

7 A. Yes.

8 Q. And Randall Crater made the big decisions about My Big  
9 Coin, correct?

10:08 10 MR. LOPEZ: Objection.

11 THE COURT: Objecting to characterization?

12 MR. LOPEZ: Yes.

13 THE COURT: Okay. Sustained as to form.

14 You can rephrase.

15 MR. MOORE: All right.

16 BY MR. MOORE:

17 Q. When you needed answers about what was happening with My  
18 Big Coin, who did you go to?

19 A. John or Randall.

10:08 20 Q. And you don't have any idea if My Big Coin was a real  
21 cryptocurrency, do you?

22 A. No. I never received any cryptocurrency, so I couldn't  
23 say that.

24 Q. And so all the information in that press release was just  
25 stuff that was told to you, right?

1 A. Yes.

2 Q. All right. You have no firsthand basis, knowledge of any  
3 of the things written in that press release.

4 A. Firsthand, no.

5 Q. Okay.

6 MR. MOORE: Thank you. Nothing further.

7 THE COURT: Redirect?

8 MR. LOPEZ: No, your Honor.

9 THE COURT: Okay.

10:09 10 Thank you, sir. You're excused. Thank you.

11 Counsel, just give me a moment.

12 THE COURT: So, Mr. Lopez, for the record, why don't  
13 you call your next witness, and then I'll give an instruction  
14 to the jury.

15 MR. LOPEZ: Richard Galvin.

16 THE COURT: Okay. He may be called.

17 Jurors, for logistical reasons on the part of the  
18 witness, the next witness you're going to hear from is via  
19 Zoom.

10:10 20 It will just take us a moment -- when I say "we," I  
21 mean Ms. Hourihan -- to set up the Zoom connection. You should  
22 consider this in the same way that you've considered and will  
23 consider any of the live testimony. The same rules will apply.  
24 So it will just take us a moment to get this set up.

25 THE COURT: Good morning, sir.

1 THE WITNESS: Good morning.

2 THE COURT: Give us a moment.

3 (Discussion off the record.)

4 THE COURT: Mr. Galvin, in a moment we're going to  
5 swear you in and then the examination will begin.

6 Can you speak up a little or --

7 THE WITNESS: Sure. Is this okay now?

8 THE COURT: That's better.

9 THE WITNESS: Okay.

10:12 10 THE COURT: And, Mr. Galvin, once you're sworn,  
11 Mr. Lopez will conduct direct examination and then the  
12 government attorneys will have the opportunity for cross-exam.

13 Again, if you can listen to the questions and just  
14 answer the questions that are posed to you. Okay?

15 THE WITNESS: Yes, ma'am. Yes, ma'am.

16 THE COURT: Okay.

17 Ms. Hourihan, why don't we swear Mr. Galvin.

18 RICHARD GALVIN having been duly sworn by the Clerk,  
19 was examined and testified as follows:

10:12 20 THE CLERK: Thank you.

21 THE COURT: Mr. Lopez.

22 MR. LOPEZ: Thank you, your Honor.

23 DIRECT EXAMINATION

24 BY MR. LOPEZ:

25 Q. Good morning, Mr. Galvin.

1 A. Good morning.

2 Q. Can you please state your full name and spell your last  
3 name.

4 A. Sure. My name is Richard Galvin, G-a-l-v-i-n.

5 THE COURT: Thank you.

6 BY MR. LOPEZ:

7 Q. And Mr. Galvin, are you here pursuant to a subpoena?

8 A. Yes, sir.

9 Q. Okay. And can you tell me your educational background.

10:13 10 A. I graduated 12th grade at the Air Force Academy in 1972  
11 and did some years of insurance education and then some real  
12 estate licensing education. And so I got an accredited college  
13 degree through all those different licensings.

14 Q. And are you currently employed?

15 A. Yes, sir.

16 Q. And what do you do?

17 A. Okay. Well, for my entire life I've been involved in the  
18 insurance, real estate, oil and gas and mining business. Since  
19 about 25 I've had my own company, Galvin Investment Company,  
10:13 20 which has morphed into numerous other subsidiaries but mostly  
21 in oil and gas, mining and real estate development.

22 Q. Do you know an individual by the name of William Donahue?

23 THE COURT: Oh, we lost your sound.

24 A. Repeat, please.

25 Q. Yes. Do you know an individual by the name of William

1 Donahue?

2 A. Yes, sir. Never met the man personally in person, but I  
3 do know of him, yes.

4 Q. And directing your attention to the time period of 2013-  
5 2014, did you hire Mr. Donahue to do something for you?

6 A. Let me start from the beginning, if I may.

7 THE COURT: Mr. Galvin, if you could just answer the  
8 questions given to you. Given obviously the requirements of  
9 the trial, we have to have questions and answers.

10:14 10 So, Mr. Lopez, if you'd repeat the question, and I'd  
11 just ask, Mr. Galvin, if you can speak as close as you can to  
12 the speaker on your end, the microphone on your end, that would  
13 be helpful.

14 THE WITNESS: Sure.

15 THE COURT: Mr. Lopez.

16 BY MR. LOPEZ:

17 Q. Directing your attention to, let's say, 2012 to 2014, did  
18 you have occasion to hire Mr. Donahue to do something for your  
19 company?

10:15 20 A. I'm sorry, I'm getting disrupted by calls here, I  
21 apologize. I am a busy man and unfortunately it's breaking up  
22 the Zoom.

23 Billy Donahue, no, no, he was not hired by me.

24 Q. Was he hired by one of your companies --

25 A. Sorry. It took me off my earpiece, so I have to apologize

1 here. See if I can get it back.

2 Q. Can you hear me?

3 Mr. Galvin, can you hear me?

4 THE CLERK: We lost him.

5 THE COURT: Why don't we see if he Zooms back in.

6 (Pause.)

7 THE COURT: Mr. Galvin, can you hear us?

8 THE WITNESS: Okay. Sorry about that. I apologize.

9 But when calls come in, it knocks me off from being able to  
10:18 10 hear you. So I apologize for that.

11 THE COURT: Thank you.

12 Mr. Lopez.

13 BY MR. LOPEZ:

14 Q. At some point was Mr. Donahue hired to fund your company?

15 A. We contracted to fund the company, yes.

16 Q. Okay. And when was that?

17 A. Well, the first initial contract was done in 20 -- March  
18 24, 2013 --

19 MR. MARKHAM: Objection, your Honor. He's -- well --

10:18 20 THE COURT: So, Mr. Galvin, you need to testify from  
21 your own memory and not from any documents.

22 THE WITNESS: Okay.

23 THE COURT: Thank you.

24 THE WITNESS: Very good. It's been a while. 2013 is  
25 a long time ago.

1 THE COURT: Understood.

2 Mr. Lopez.

3 MR. LOPEZ: Yes.

4 | BY MR. LOPEZ:

5 Q. Mr. Galvin, can you tell me what high grade concentrate  
6 is?

7 A. Yeah, high grade concentrates are material that once you  
8 take the ore from the bowels of mother earth, if you will, and  
9 you take all the silicas and sands away, you come up with what  
10 they call the heavies. Those heavies are considered in the  
11 industry high-grade concentrates. They hold the microscopic  
12 particles of gold, platinum, palladium and iridium, PGMs.

13 Q. Do you or your company own any high-grade concentrates?

14 A. Yes, we do. We have 500 barrels, about 1 ton per barrel,  
15 in a bonded warehouse in El Paso, Texas, have for close to 30  
16 years now.

17 Q. Now, I sent you a number of documents yesterday for you to  
18 review.

19 A. Yes, sir.

10:19 20 Q. And I'll state for the record that it was a portion of  
21 12A, which has been admitted.

22 THE COURT: Yes.

23 | THE WITNESS: Okay.

24 BY MR. LOPEZ:

25 Q. And I direct your attention to the document entitled

1 "Corporate Resolutions."

2 THE COURT: In 12A?

3 MR. LOPEZ: In 12A.

4 THE WITNESS: Am I able to pull that up and look at it  
5 now?

6 THE COURT: You may.

7 MR. LOPEZ: You may.

8 THE WITNESS: All right, very good. Hold on one  
9 second, please.

10:20 10 That was on Tuesday, July 19, right? There it is.

11 Let me open it up. Okay. Corporate resolution, there  
12 you go.

13 BY MR. LOPEZ:

14 Q. And that corporate resolution in the first paragraph  
15 appears to be dated January 29, 2014?

16 A. That's correct.

17 MR. LOPEZ: Mr. Sweeney, could you pull up 12A.

18 THE COURT: So, counsel, because we're on Zoom, we  
19 can't do both things at once.

10:20 20 MR. LOPEZ: Okay. So let me put it in ELMO. No.

21 THE COURT: So all one system.

22 MR. LOPEZ: So, okay.

23 BY MR. LOPEZ:

24 Q. Can you go to page 2 of that document, corporate  
25 resolutions.

1 A. Yes, sir. I have it.

2 Q. And do you see a name in the middle of that page?

3 A. William Donahue. Is that what you're referring to?

4 Q. Yes. Can you read what it says there, William E. Donahue.

5 A. Yeah, William E. Donahue, Jr., country and citizen of the  
6 United States of America, passport number 4342 --

7 Q. No, no, I'm talking about the middle page 2 where --

8 A. I'm on page 2.

9 THE COURT: And might I suggest here --

10:21 10 A. What number?

11 THE COURT: -- Mr. Lopez, if you read it to the  
12 witness and see if he --

13 BY MR. LOPEZ:

14 Q. Can you find the page that has "William E. Donahue, Jr.,  
15 director, principal facilitator and fund manager Galvin  
16 Investments, LLC"?

17 A. Oh, yes, that's on page 3 in my --

18 Q. Okay. Apologize.

19 What did you understand that corporate resolution to  
10:22 20 do?

21 A. Well, my recollection, the best I remember, was William  
22 needed to be part of my company in order to facilitate his own  
23 credit facility to fund my company. This is one of his many  
24 requests that he had from me in order to get a \$100 million  
25 standby letter of credit.

1 Q. Now, can you go through the pages until you get to a  
2 document dated October 12, 2011 entitled DRRF Metals, Inc.?

3 A. Sure. Sure. I'm there, October 12, 2011, that's page 6  
4 in my --

5 Q. And who is that addressed to?

6 A. It's addressed to Richard Galvin.

7 Q. That would be you.

8 A. That's correct, Galvin Investment Companies, Galvin  
9 Metals, mm-hmm.

10:22 10 Q. And what is the purpose of that document?

11 A. Well, it was -- Dr. Finch, DRRF Metals, is a nuclear  
12 scientist doctor that had taken samples from my barrels after  
13 they were processed by Ledoux & Company and others, Dr. Noee,  
14 there was many people around these barrels while they were  
15 being sampled for its content.

16 And those samples were then put together and sent out to  
17 Dr. Finch for him to review through his XRF, which is an x-ray  
18 type machine, to find out what microscopic particles are in  
19 these complex metals. And that's what he did, he performed  
10:23 20 what they call an assay.

21 Q. Okay. An assay.

22 Now, going through the next pages, there's a series of  
23 pages which appear to be resumés.

24 A. Well, the assay reports were done -- I call myself assayed  
25 to death. I had so many people --

1 Q. Sir --

2 THE COURT: Well, Mr. Galvin, if you could wait for  
3 the next question, Mr. Lopez will put it to you.

4 THE WITNESS: Sure.

5 THE COURT: Thank you.

6 BY MR. LOPEZ:

7 Q. Would you agree with me these are resumés of assayers?

8 A. Yes, sir.

9 Q. Can you now turn to the page that lists assay reports.

10:24 10 A. Sure. I think that's page -- there it is, 7 in mine, yup.

11 Q. You see that?

12 A. Page 7, yes.

13 Q. It looks like there's listed seven assay reports on the --

14 A. Yeah, seven different companies.

15 Q. On the concentrate held by Galvin Investments?

16 A. That is correct.

17 Q. And that lists Mineral Worlds, Inc., DRRF Metals, Inc.,

18 DBS Minerals Research, Inc., Roger J. Smid, Gilman Metals

19 Company LLC, Technodynamics LLC, and ChemSep Corporation.

10:25 20 A. Yes, sir.

21 Q. Are those all, as far as you know, legitimate assay  
22 reports?

23 MR. MOORE: Objection.

24 A. Oh, yes. Oh, yes.

25 MR. LOPEZ: And how do you know that?

1                   THE COURT: Overruled. The answer may stand.

2 BY MR. LOPEZ:

3 Q. How do you know that?

4 A. Well, because I worked with all of them. I was there on  
5 most of them, in the labs when they were being conducted.

6 Q. Okay. Now, sir, did you ever authorize Mr. Donahue to  
7 share those documents that we just went through with any other  
8 company?

9 A. No, no, that was for internal use only because he was my  
10:25 10 lender. There was no other reason for it to go out to anyone.

11 Q. Okay. Now --

12 A. He would have to have my authorization as well.

13                   THE COURT: Mr. Galvin, just wait for the next  
14 question, okay. Thank you.

15                   THE WITNESS: Yes, ma'am.

16                   MR. LOPEZ: If I could just have a moment, your Honor.

17                   THE COURT: Sure.

18                   MR. LOPEZ: If you could bring up 12E.

19 BY MR. LOPEZ:

20 Q. Now, sir, turning to the documents that I sent you from  
21 Broker Logistics Limited with an invoice date of 12/1/2014.

22 A. Okay.

23 Q. Made out to Galvin Investment Companies LLC?

24 A. That's correct.

25 Q. Okay. And looking at the first page, which appears to be

1 a list of metals, can you tell me what that is?

2 A. When you say a list of metals, this Broker Logistics sheet  
3 to me, invoice number 129445, invoice date 12/1/14, is a list  
4 of the barrels and its locations in the warehouse with serial  
5 numbers. Nothing to do with what metal content is involved.

6 Q. Understood. But what's it an invoice for?

7 A. Oh, that's my invoice that I get every month, have for  
8 over 20 years, still getting them today, is for the payment of  
9 the rents for the insurance and the storage of those in a  
10 bonded warehouse in El Paso, Texas.

11 Q. When you say "storage," are you referring to the 500  
12 barrels of concentrate you own?

13 A. Yes, sir.

14 Q. Did you ever authorize Mr. Donahue to share those  
15 documents with anyone else?

16 A. No, sir. There would be no -- I would not want that for  
17 various reasons. So, no.

18 Q. And now I direct your attention to the last document I  
19 sent you yesterday, which is an email --

10:28 20 A. Hold on.

21 Q. Can you read the top of that email?

22 A. I'm getting to it.

23 Which page are you on?

24 Q. I believe it's the last page of the set I sent you.

25 A. Okay, the last page, okay. 52. All right. Hold on.

1                   Okay, there we are, mm-hmm.

2 Q.    Do you see that email?

3 A.    Yeah. It's partnership portfolio commitment by --

4 Q.    To MBC and now MBCPay.

5 A.    Yeah, I'm on that page.

6                   THE COURT: We'll just make this, for the record, XX.

7                   MR. LOPEZ: Okay.

8                   THE COURT: Thank you.

9                   (Exhibit XX marked for identification.)

10:28 10 BY MR. LOPEZ:

11 Q.    And that's an email that you wrote?

12 A.    Yes, sir.

13 Q.    And it was sent to --

14 A.    -- My Big Coin --

15                   THE COURT: So, Mr. Galvin, the court reporter needs  
16 to transcribe everything. So I want to make sure people don't  
17 talk over each other.

18                   Mr. Lopez, you may ask a question.

19 BY MR. LOPEZ:

10:29 20 Q.    I'll get through everything. Just answer the question  
21 that I ask.

22                   Is that an email that you wrote?

23 A.    Yes, sir.

24 Q.    And is it sent to MyBigCoin@gmail.com?

25 A.    Yes, sir.

1 Q. And billy@hiinternational.com? Or hiintl.com.

2 A. Yeah, yeah, Billy and Stuart both.

3 Q. And is that Billy@hiintl.com Billy Donahue?

4 A. Yes, yes, sir.

5 Q. And StuartBorland@hiintl.com?

6 A. Yes, sir.

7 Q. Is that Stuart Borland?

8 A. Yes, sir.

9 Q. And do you know whether Stuart Borland works with  
10:30 10 Mr. Donahue?

11 A. My understanding they did.

12 Q. Now, this email reads: Dear John, I'm aware of our HI --  
13 THE COURT: Well, counsel, are you offering it?

14 MR. LOPEZ: Sure, I'll offer it.

15 THE COURT: Any objection?

16 MR. MOORE: No, your Honor.

17 THE COURT: It may be admitted as -- I think we're up  
18 to 47, Ms. Hourihan.

19 THE CLERK: 48.

10:30 20 THE COURT: 48, all right. 48.

21 (Exhibit 48 received into evidence.)

22 BY MR. LOPEZ:

23 Q. In this email you write, Dear John.

24 Did you know who John was?

25 A. No, this is a letter I was requested by Billy to do.

1 Q. I'll get to that.

2 I'm aware of our HI lower/Galvin 100 M partnership  
3 portfolio commitment to MBC and now MBCPay. We hope to have  
4 much success with this portfolio investment and look forward to  
5 receiving good news and a return on our partnership's portfolio  
6 investments. Billy says yes, we say yes. Sincerely Richard  
7 Galvin, principal, partner, director.

8 Did I read that correctly?

9 A. That's what I see. Yes.

10:31 10 Q. Why did you send that email?

11 A. Well, as instructed by Billy at that time, had gained my  
12 confidence to do whatever he requested to get the \$100 million  
13 standby letter of credit and funding of my company. Numerous  
14 requests that Billy had. He said cut and paste and please send  
15 this, so I did as a request from him. I didn't know who I was  
16 sending it to or who My Big Coin was. Billy said to say it's a  
17 partner of ours, just send it.

18 Q. Did you ever intend to commit your 500 barrels of  
19 concentrate to My Big Coin?

20 A. No, sir.

21 Q. My Big Coin Pay?

22 A. No, sir.

23 Q. Did you ever authorize Billy Donahue to offer your 500  
24 barrels of concentrate to My Big Coin or My Big Coin Pay?

25 A. No, sir. You'd have to have a corporate resolution for

1 that. I did not authorize him, no.

2 Q. One final question, Mr. Galvin. The 500 barrels do, in  
3 fact, contain concentrate, right?

4 A. That's correct. That's correct, mm-hmm.

5 MR. LOPEZ: Thank you.

6 No more questions, your Honor.

7 THE COURT: Thank you.

8 Cross-examination, Mr. Markham.

9 CROSS-EXAMINATION

10 BY MR. MARKHAM:

11 Q. Mr. Galvin, can you see me and hear me?

12 A. Yes, sir.

13 Q. Okay. So you just testified that you never committed \$100  
14 million of anything to My Big Coin, right?

15 A. Absolutely not.

16 Q. And certainly if you never committed \$100 million of  
17 anything, you never committed \$300 million of anything, right?

18 A. That's correct.

19 Q. And you have never spoken to Randall Crater?

10:33 20 A. No, sir, not to my recollection or knowledge.

21 Q. You talked about these barrels that are in a warehouse in  
22 El Paso.

23 A. Correct.

24 Q. And those barrels contain what's called mined waste  
25 material; is that right?

1 A. It's high-grade concentrates. We've taken all the silicas  
2 and sands away from the mine waste and got what we called the  
3 heavies. Therefore, they become a high-grade concentrate that  
4 can be refined.

5 Q. And those originally came from a Superfund site?

6 A. Yes, sir.

7 Q. And the Superfund site -- a Superfund site is an area that  
8 the government has deemed to be filled with toxic waste  
9 materials, right?

10:33 10 A. That is correct.

11 Q. And those barrels have been in El Paso since 1996?

12 A. That's correct.

13 Q. And there's no gold bullion in those barrels, right?

14 A. No, no, of course not.

15 Q. And you never told anyone that there's gold bullion in  
16 those barrels.

17 A. I couldn't, no, that would be a lie.

18 Q. That would be dishonest.

19 A. That's correct.

10:34 20 Q. And so to the extent there's potential for some amount of  
21 money or precious materials in those barrels, you'd have to  
22 have a very specialized technology to extract it, right?

23 A. That is correct. We patented a process to do that and  
24 it's a nuclear -- it takes nuclear science. If you want me to  
25 go into it, I can, but, yes, it's a very unique process.

1 Q. Okay. So there's no gold bullion in those barrels, and if  
2 you want to get anything out of those barrels, you need to be a  
3 nuclear scientist?

4 A. You would have to have the nuclear formulas, that's  
5 correct.

6 Q. That would take a lot of money, right?

7 A. It has, yes.

8 Q. Right, it's 2022, and those barrels have been there since  
9 1996 from the start, right?

10:35 10 A. Yeah, they have, that's correct.

11 Q. Fair to say that would take a lot of time?

12 A. Time and money, about \$50 million so far has been invested  
13 in this process to get a patented process and a first plant  
14 built, which is a small prototype production plant. So, yes,  
15 it's very expensive.

16 Q. Just like the way you have it, you couldn't just sell that  
17 gold one day to pay someone else, it would take you \$50  
18 million, 30 years, and some nuclear scientists?

19 A. No, you'd have to have access, correct.

10:35 20 Q. Okay. You never gave those barrels to Randall Crater,  
21 correct?

22 A. No, sir.

23 Q. And you never told Randall Crater that there's \$300  
24 million worth of anything in those barrels?

25 A. No, sir.

1 Q. And those barrels are not located in Spain in a bank,  
2 right?

3 A. Well, the last time I got my bill, which was this month,  
4 they're still in Texas as far as Broker Logistics tells me. I  
5 could down and inspect. They're still there.

6 MR. MARKHAM: Thank you, Mr. Galvin.

7 THE COURT: Thank you.

8 Any redirect?

9 REDIRECT EXAMINATION

10 BY MR. LOPEZ:

11 Q. At some point did you learn that one of the assayers had  
12 put -- or one of the assay reports had Harmonie International  
13 on it?

14 MR. MARKHAM: Objection, outside the scope.

15 THE COURT: Well, scope, counsel, scope objection,  
16 Mr. Lopez.

17 MR. LOPEZ: Mr. Donahue is with Harmonie  
18 International.

19 THE COURT: But the objection is scope of cross-exam,  
10:36 20 counsel.

21 THE WITNESS: Do I need to answer that or no?

22 THE COURT: No, I'm waiting for Mr. Lopez. If you can  
23 hold on for a moment.

24 THE WITNESS: Okay, very good. Sure, sure.

25 BY MR. LOPEZ:

1 Q. Did you ever authorize Mr. Donahue to tell anyone that  
2 your barrels of concentrate were worth \$100 million?

3 A. No, sir.

4 MR. LOPEZ: Thank you.

5 THE COURT: Any recross?

6 MR. MOORE: No, your Honor.

7 THE COURT: Thank you, sir.

8 Thank you, Mr. Galvin. We appreciate it.

9 THE WITNESS: Yes, ma'am.

10:37 10 (Discussion off the record.)

11 THE COURT: And, Mr. Lopez, I would give you  
12 permission to briefly publish to the jury 12A and 12E and what  
13 we've now marked as 48, just so they can see it.

14 I believe they've seen 12A and 12E, but if you wanted  
15 to just briefly do that.

16 THE COURT: Okay. So 12A is fine.

17 MR. LOPEZ: Joe, could you just scroll through the  
18 pages of 12A.

19 THE COURT: And I'll just say 12A is being published.

10:38 20 MR. LOPEZ: Just slowly.

21 And then the corporate resolution.

22 (Showing document.)

23 MR. MARKHAM: Your Honor, I think we've gone past the  
24 page that the witness actually went over.

25 MR. LOPEZ: No, we haven't.

1                   THE COURT: I think there was actually reference to  
2 these, so keep going.

3                   (Showing document.)

4                   THE COURT: Oh, Mr. Markham, is your point he wasn't  
5 asked about each of these pages? It was just --

6                   MR. MARKHAM: We're just now doing a 68-page  
7 presentation document --

8                   THE COURT: Sure. Mr. Lopez, I think that's correct.  
9 I think it was about the cover sheet.

10:40 10           Can we move onto 12E.

11                   12E is being published.

12                   (Document shown.)

13                   THE COURT: Counsel, I think the last one was 48,  
14 what's now 48.

15                   MR. LOPEZ: Yes, your Honor.

16                   THE COURT: Do you want to switch to the ELMO?

17                   MR. LOPEZ: I do, but I want to go back to the first  
18 page of 12E.

19                   MR. MARKHAM: Your Honor, we'll have closing arguments  
10:41 20 today.

21                   THE COURT: Counsel, I think 12E has been published  
22 already, but I can -- you can go to 48.

23                   And this is what's now 48.

24                   MR. LOPEZ: Yes.

25                   THE COURT: Thank you.

1 (Document shown.)

2 THE COURT: Counsel, next witness.

3 MR. LOPEZ: Yes, your Honor. It will be Tom Callahan,  
4 your Honor.

5 THE COURT: He may be called.

6 MR. LOPEZ: Let me go get him.

7 (Pause.)

8 MR. LOPEZ: Thomas Callahan.

9 THE COURT: He may be called.

10:43 10 THE CLERK: Mr. Callahan, you can take the witness  
11 stands.

12 THOMAS CALLAHAN, having been duly sworn by the Clerk,  
13 was examined and testified as follows:

14 THE CLERK: Thank you.

15 THE COURT: Good morning, sir.

16 THE WITNESS: Good morning.

17 THE COURT: Mr. Lopez.

18 MR. LOPEZ: Yes.

19 DIRECT EXAMINATION

20 BY MR. LOPEZ:

21 Q. Could you please introduce yourself to the jury spelling  
22 your last name, sir.

23 A. Yes, my name is Thomas Callahan. Last name is spelled  
24 C-a-l-l-a-h-a-n.

25 THE COURT: Thank you.

1 BY MR. LOPEZ:

2 Q. And are you here pursuant to a subpoena?

3 A. I am.

4 Q. How far did you go in school, sir?

5 A. I am a PhD candidate. I finished all the course work, did  
6 not take the comps or do a dissertation.

7 Q. That's the hardest part.

8 A. Some would say that.

9 Q. Are you familiar with a company by the name of My Big  
10:44 10 Coin?

11 A. I am.

12 Q. And how are you aware of that?

13 A. I was introduced to it by a gentleman by the name of John  
14 Lynch.

15 Q. And what is your relationship with Mr. Lynch?

16 A. Friends of 40-plus years.

17 Q. And what did you learn Mr. Lynch had done for you?

18 A. I got a call one Sunday morning and he told me about this  
19 investment and he suggested it to me, and I told him at the  
10:44 20 time I didn't think I had the money to do it. He said, Listen,  
21 if it works out, you pay me back. If it doesn't work out, I  
22 won't chase you. So, in essence, it was a non-recourse loan.

23 Q. As a result of that conversation, did you become aware  
24 that he purchased some My Big Coin coin on your behalf?

25 A. Yes.

1 Q. And that he paid for it?

2 A. Yes.

3 Q. Okay. And I take it you haven't paid for any My Big Coin  
4 that you own?

5 A. I also bought an additional \$3,000 with my own funds.

6 Q. Okay.

7 So how many My Big Coins do you currently own?

8 A. I forgot the exact number, but the total investment was a  
9 little bit north of 22,000.

10:45 10 Q. Okay. Now, before you purchased your coin personally, did  
11 you speak to Mr. Crater?

12 A. I've never spoken to Mr. Crater.

13 Q. Did you speak to Mr. Gillespie?

14 A. I have spoken to Mark.

15 Q. Was it before you purchased the \$3,000?

16 A. My only conversations with Mark Gillespie related to a  
17 credit -- a debit card, rather. And I was having an issue with  
18 the debit card and I got his number from John Lynch and I  
19 called Mark and he called the bank and they needed some  
10:46 20 additional paperwork from me and that resolved the issue on the  
21 debit card.

22 Q. And were you able to use a debit card?

23 A. Yes.

24 Q. Do you remember the name of the debit card?

25 A. It said UltraCard on it.

1 Q. And did it have your name on it?

2 A. It had "preferred customer."

3 Q. And when you received the card, did you register the card?

4 A. In terms of registering with the bank?

5 Q. Yes.

6 A. Yeah, and I put funds in it and I used the card.

7 Q. And where did you use the card?

8 A. I used it at a bunch of different places just to see if it  
9 would work. Also, in the summer of 2016, I was going to be  
10:46 10 going to Miami Beach area. A friend of mine was relocating to  
11 that area, and I used it -- I think I might have used it to pay  
12 for the hotel at the time, but I kind of put money aside for a  
13 vacation fund and put it on that card and it worked.

14 Q. Now, when you personally purchased coin, did you evaluate  
15 the risk involved?

16 A. Oh, yeah. Yeah, I mean, it was a very speculative  
17 investment. I was aware of that.

18 Q. Based on your conversations with Mr. Lynch, was he aware  
19 of it?

10:47 20 MR. MOORE: Objection, your Honor. Calls for  
21 speculation.

22 THE COURT: Well, sustained as to this.

23 BY MR. LOPEZ:

24 Q. When you spoke to Mr. Lynch, did he say anything to you  
25 about the coin being backed by gold?

1 MR. MOORE: Objection, hearsay.

2 THE COURT: Well, offered for effect on the listener  
3 presumably, so overruled.

4 You can answer, sir.

5 A. I don't know specifically. I know I saw it on a web page.

6 Q. At some point in the future?

7 A. Yeah, at some point in the process. I mean, the original  
8 investment was I think 2014.

9 Q. Okay. And you had no difficulty using the credit card.

10:48 10 A. Except that one time and Mark Gillespie called the bank  
11 and it was, I believe, in Georgia -- I thought Georgia, South  
12 Carolina, but I think it was in Georgia -- and he found out  
13 they needed me to update the copy I sent them of my license,  
14 maybe my license expired or something, but he got the actual  
15 reason, you know, I couldn't either check my balance online or  
16 use the card, and he found out exactly what I needed to do, and  
17 I did it and I started using the card.

18 Q. And thereafter you were able to use the card you received  
19 from My Big Coin?

10:49 20 A. Yeah.

21 MR. LOPEZ: No further questions.

22 THE COURT: Counsel, cross-exam.

23 MR. MOORE: Yes, your Honor.

24 THE COURT: Mr. Moore.

25 CROSS-EXAMINATION

1 BY MR. MOORE:

2 Q. You've been to the My Big Coin website before?

3 A. Yes.

4 Q. And you remember seeing on there that My Big Coin was  
5 backed by gold?

6 A. There was something on the original website that said  
7 that, yes.

8 Q. And do you remember the My Big Coin YouTube video?

9 A. I'm sure I looked at it if there was a link, you know.

10:49 10 Q. Do you remember a video being embedded on the My Big Coin  
11 page?

12 A. I'm not sure if I saw it on that or something else I saw  
13 online, to be honest with you.

14 Q. But you do have a recollection of a video?

15 A. There was some video. I'm sure I clicked on it and  
16 watched it.

17 Q. It was a video about My Big Coin?

18 MR. LOPEZ: Objection.

19 THE COURT: Counsel, basis here?

10:50 20 MR. LOPEZ: I mean, it's -- I know it's  
21 cross-examination and it's leading, but it's going into the  
22 actual substance.

23 THE COURT: Well, so far -- overruled as to the  
24 questions so far, counsel.

25 MR. LOPEZ: Okay.

1                   THE COURT: I'm listening.

2                   Mr. Moore.

3 BY MR. MOORE:

4 Q. The video you recollect was a video about My Big Coin?

5 A. Yeah, it was about it. I don't remember any of the  
6 details, though.

7 Q. You followed My Big Coin on Twitter, correct?

8 A. Yeah, I have a Twitter account and that was one of the  
9 ones I followed, yes.

10:50 10 Q. And you signed up for Twitter to follow My Big Coin,  
11 right, that was one of the reasons you signed up?

12 A. There was a couple of reasons. That was one of them.

13 Q. Do you remember seeing tweets about My Big Coin on  
14 Twitter?

15 A. I tell you most of the tweets were, you know, Happy 4th of  
16 July and stuff like that. I don't recall that many that were  
17 even pertaining to the investment itself.

18 Q. Okay. But there were at least some tweets about the  
19 investment.

20 A. I'm sure there probably were, but, you know, I would get  
21 notice of a tweet and it would be a Happy 4th of July and  
22 things like that, Merry Christmas, Happy Thanksgiving.

23 Q. And when you saw on the My Big Coin web page that it was  
24 backed by gold, you relied upon that, correct?

25                   MR. LOPEZ: Objection.

1 A. No.

2 THE COURT: Well, overruled. You can answer.

3 A. No, because the investment was made before any mention of  
4 gold.

5 Q. But did you think that that was significant, My Big Coin  
6 being backed by gold?

7 A. I thought it was interesting, but the investment had  
8 already been paid.

9 Q. And that investment was --

10:51 10 A. The original investment.

11 Q. Most of that was made by John Lynch?

12 A. On my behalf, yes.

13 Q. Do you remember being asked questions about the My Big  
14 Coin UltraCard you received?

15 A. In terms of questions --

16 Q. On cross-examination do you remember being asked about  
17 that?

18 THE COURT: You mean on direct examination.

19 BY MR. MOORE:

10:51 20 Q. I'm sorry, on direct examination.

21 A. Right, yeah.

22 Q. That was just a normal prepaid debit card, right?

23 A. Yeah, it was a prepaid debit card.

24 Q. You couldn't use your My Big Coins with that card, could  
25 you?

1 A. It never got to that point.

2 Q. So the cash that you spent was just your own cash you  
3 loaded on the card?

4 A. Yeah, yeah, exactly.

5 Q. And even after you loaded your own card, didn't you have  
6 to, like, activate the card?

7 A. Well, when you receive the card in the mail, you activate  
8 it. And I would go online and I could follow my balance  
9 online. If I went and put \$200 on, I'd go back to the computer  
10:52 10 and confirm that the \$200 was on my card.

11 Q. So this is just like a prepaid debit card you can get at  
12 CVS?

13 A. Well, I wouldn't go that far. One thing that was  
14 interesting to me, when I had a problem with it, Mark Gillespie  
15 was able to call the bank directly and get an answer for you.

16 Q. Are you aware that with prepaid cards at CVS, you can also  
17 call the bank, are you aware of that?

18 A. Yeah, if you're the credit card holder, but I wasn't --  
19 but Mark wasn't. Mark wasn't the debit card holder. I was.

10:53 20 Q. So the interesting thing about that was that Gillespie had  
21 access to your account as well?

22 A. Well, it was of interest to me that Mark was able to call  
23 and find out the reason I couldn't access my balance online or  
24 the card didn't work or I couldn't put money on the card. I  
25 don't recall exactly which reason it was that I called Mark,

1 but it wasn't -- I wasn't able to either access my balance or  
2 something, and Mark made a phone call and said, You got to send  
3 them photo of your -- or picture of your current driver's  
4 license and then maybe another piece of paper. And then the  
5 card worked.

6 Q. So as far as you're aware, the prepaid debit card you  
7 received was not actually connected to your My Big Coin account  
8 in any way?

9 A. I don't think it ever got to that point.

10:53 10 MR. MOORE: Thank you. Nothing further.

11 THE COURT: Any redirect?

12 REDIRECT EXAMINATION

13 BY MR. LOPEZ:

14 Q. On that last point, when you say it never got to that  
15 point, what do you mean by that?

16 A. Well, the understanding was that at some point we would be  
17 able to -- they were going to transition that card to a card  
18 that actually said My Big Coin on it. It would be used, be  
19 able to use it at ATMs. I mean, part of this as all connected  
20 to accessing the marijuana market and they were able to  
21 circumvent the need to use cash transactions at marijuana  
22 stores. That was part of the whole thing.

23 Q. Do you know why it never got to that point?

24 MR. MOORE: Objection.

25 THE COURT: What, foundation, counsel?

1 MR. MOORE: Yes, your Honor.

2 THE COURT: You can lay the foundation.

3 BY MR. LOPEZ:

4 Q. Do you know why it never got to that point?

5 THE COURT: Well, that's the same question, so  
6 sustained.

7 You can try to lay the foundation, counsel.

8 BY MR. LOPEZ:

9 Q. Do you have personal knowledge as to why it didn't get to  
10:54 10 that point?

11 A. There was a law case filed by the CFTC.

12 MR. MOORE: Objection, your Honor.

13 THE COURT: Well, sustained as to that. It's struck.

14 MR. LOPEZ: Thank you, Mr. Callahan.

15 MR. MOORE: Just one question.

16 THE COURT: Recross.

17 RECROSS-EXAMINATION

18 BY MR. MOORE:

19 Q. All the stuff that you know about the My Big Coin card,  
10:55 20 that came from Gillespie, right?

21 A. No, I mean, I got stuff in the mail, and I had -- the only  
22 person I talked to on the phone regarding it was when I had a  
23 problem, I got Mark's number and I called Mark and he called  
24 the bank and it got straightened out.

25 MR. MOORE: Thank you. Nothing else.

1 THE COURT: Thank you.

2 | Thank you, sir. You're excused. Thank you.

3 MR. LOPEZ: Your Honor, one more brief witness, but I  
4 don't know if he's here. If I can have a second.

5 THE COURT: Sure, sure.

6                   Jurors, I'm aware of the time, but I also understand  
7 this is a brief witness from both sides, I believe.

8 | (Pause.)

9 MR. LOPEZ: The defense calls Larry Brantley.

10:56 10 THE COURT: He may be called.

11                   LARRY BRANTLEY, having been duly sworn by the Clerk,  
12 was examined and testified as follows:

13 THE CLERK: Thank you. Please be seated.

14 THE COURT: Good morning, sir. Good morning.

15 | THE WITNESS: Hi.

16 THE COURT: And, sir, can you turn the microphone.

17 | Thank you.

18 Mr. Lopez.

19 DIRECT EXAMINATION

20 BY MR. LOPEZ:

21 Q. Can you introduce yourself to the jury and spell your last  
22 name.

23 A. Larry Brantley, B-r-a-n-t-l-e-y.

24 THE COURT: Thank you.

25 BY MR. LOPEZ:

1 Q. And, sir, how far did you go in school?

2 A. Bachelor's degree in business.

3 Q. And are you currently employed?

4 A. Yes.

5 Q. Where are you employed?

6 A. Calgon Carbon Corporation.

7 Q. And where do you live?

8 A. I live in Slidell, Louisiana.

9 Q. And where is that near?

10:57 10 A. Beg your pardon?

11 Q. Where is that near?

12 A. It's near New Orleans, across Lake Pontchartrain.

13 Q. Are you familiar with a company by the name of My Big  
14 Coin?

15 A. Yes.

16 Q. How are you -- when did you first become aware of it?

17 A. Through Mark Gillespie. We were involved with a company  
18 called ATIG, Atlantis Internet Group, and we were investors in  
19 that group and I was looking for a different -- other  
10:58 20 investments and this came about and he said I could get in with  
21 My Big Coin.

22 Q. Okay. And at some point did you get involved?

23 A. Yes.

24 Q. Okay. And what did you understand My Big Coin to be?

25 A. It was fairly new, new at the time. I never heard of

1 cryptocurrencies, but it was -- I did a little research at that  
2 time, it was like the Bitcoin. And at that particular time the  
3 Bitcoin was like \$100 a share, and this was I think it was  
4 starting off similar. I think it was \$70 a share when I got  
5 involved maybe.

6 Q. Do you recall what Mr. Gillespie told you about My Big  
7 Coin before you decided to invest?

8 A. Beg your pardon?

9 Q. Do you recall what Mr. Gillespie told you before you  
10:59 10 decided to invest?

11 A. Basically I could get in on the ground floor. It was  
12 brand new and it was just starting.

13 Q. Okay. Did you evaluate the risk involved?

14 A. Yeah, I mean, it was always some risk. It was similar to  
15 ATIG. It was the ground floor. And I figured if I got in on  
16 the ground floor, I might make a substantial amount of money.

17 Q. Did any of your family members also purchase coins?

18 A. Yes.

19 Q. Who?

10:59 20 A. Well, my wife invested with me, and also my two sons.

21 Q. How much did you invest?

22 A. Well, it started off with the coins, and I think I  
23 invested 15,000 to 20,000 in coins, and then later on it went  
24 into the stock, and I invested 25,000 in stock, and I believe  
25 my sons, one son maybe invested 7,000 to 10,000 and another one

1 might have invested 5,000.

2 Q. Have you ever met Mr. Crater?

3 A. Mr. Who?

4 Q. Mr. Crater?

5 A. No.

6 Q. Have you ever met Mr. Gillespie?

7 A. Yes.

8 Q. Have you talked to Mr. Crater?

9 A. Not personally. Just texts.

11:00 10 Q. Just texts?

11 A. Mm-hmm.

12 THE COURT: And I'm sorry, you have to give a verbal  
13 answer. Do you mean "yes" when you said mm-hmm?

14 THE WITNESS: I beg your pardon?

15 THE COURT: You have to give a verbal answer. Did you  
16 mean "yes" just now?

17 THE WITNESS: I'm hard of hearing.

18 THE COURT: I'll speak up. Just texts, just texts?

19 THE WITNESS: Text messages.

11:01 20 THE COURT: Okay.

21 THE WITNESS: Mm-hmm.

22 BY MR. LOPEZ:

23 Q. At some point did you hear that My Big Coin was backed by  
24 gold?

25 A. Yeah, later after I got into it, yeah.

1 Q. How much later?

2 A. It's hard to tell. It was -- it was later. That's when I  
3 think a couple more different companies was getting involved,  
4 but -- yeah.

5 Q. Did that statement "backed by gold" have any influence  
6 over your decision to purchase My Big Coin coins or My Big Coin  
7 stock?

8 A. I had already -- by that time I had already purchased  
9 pretty much.

11:02 10 Q. And when did you make your purchases?

11 A. It's hard to say. 2013, '14, '15.

12 Q. All right.

13 A. My memory is lapsing. I'll be 70 next year, and it's --

14 Q. And when did you first hear, if you recall, that it was  
15 backed by gold?

16 A. Six months a year after my purchase or so. It was after.

17 MR. LOPEZ: Thank you very much, Mr. Brantley. And  
18 thank you for coming up here from New Orleans.

19 THE WITNESS: Okay.

11:02 20 THE COURT: Cross-examination, counsel?

21 MR. MOORE: Yes, your Honor.

22 CROSS-EXAMINATION

23 BY MR. MOORE:

24 Q. Are you familiar with The Investors Board?

25 A. Message board, yes.

1 Q. Do you remember making posts on The Investors Board about  
2 investments?

3 A. Yes. I put more -- yes, yes.

4 Q. Do you ever remember Mark Gillespie instructing you to  
5 make posts about the My Big Coin cryptocurrency and its  
6 integration into online casinos?

7 A. I don't -- I don't recall that. A couple of nights ago I  
8 think the FBI called me and brought that to my attention, but I  
9 never -- I can't recall. I might have.

11:03 10 MR. MOORE: May I approach, your Honor?

11 THE COURT: You may.

12 MR. MOORE: Just to refresh.

13 BY MR. MOORE:

14 Q. Can you just take a look at that and see if that refreshes  
15 your memory if you ever received that instruction?

16 (Pause.)

17 A. Okay, I might have posted this --

18 THE COURT: Well -- well, sir, just wait for a  
19 question.

11:04 20 Mr. Moore.

21 BY MR. MOORE:

22 Q. Does this refresh your recollection if Mark Gillespie ever  
23 asked you to make posts on The Investor Board about My Big  
24 Coin?

25 MR. LOPEZ: Objection.

1                   THE COURT: I'm -- it's offered for impeachment,  
2 Mr. Moore?

3                   MR. MOORE: Yes, your Honor.

4                   THE COURT: Okay. Overruled.

5                   Why don't you put the question again.

6 BY MR. MOORE:

7 Q. Does this email refresh your recollection if Mark  
8 Gillespie ever asked you to make posts on The Investor Board  
9 about My Big Coin cryptocurrency?

11:05 10 A. I don't recall it, but I see that it has my email address  
11 on it, yeah.

12 Q. But you're not denying -- you don't have reason to  
13 believe --

14 A. I'm not denying it.

15 Q. And you wouldn't have had any firsthand knowledge about  
16 any of this information, correct?

17 A. About this, no.

18 Q. So you would have just been relying on what Mr. Gillespie  
19 told you?

11:05 20 A. Yes.

21 Q. And whoever Mr. Gillespie got that information from?

22 A. I have no idea.

23 Q. Okay.

24                   You were asked about your risk analysis of My Big  
25 Coin. In that risk analysis, did you evaluate the possibility

1 that you were being intentionally lied to about what My Big  
2 Coin was?

3 A. No, I never thought about that.

4 Q. Would it have mattered to you, when you invested, if the  
5 people who told you about My Big Coin were intentionally lying  
6 to you?

7 A. Yeah, it would have mattered, yes.

8 MR. MOORE: Thank you. Nothing further, your Honor.

9 THE COURT: Redirect?

11:06 10 REDIRECT EXAMINATION

11 BY MR. LOPEZ:

12 Q. Mr. Crater never asked you to post anything about My Big  
13 Coin on an investor board, did he?

14 A. No.

15 MR. LOPEZ: Thank you.

16 No further questions, your Honor.

17 MR. MOORE: Nothing further, your Honor.

18 THE COURT: Thank you.

19 Sir, you're excused. Thank you.

11:06 20 Thank you. You can leave those there. Thank you.

21 THE WITNESS: Okay.

22 MR. LOPEZ: Your Honor, the defense rests.

23 THE COURT: Okay.

24 Jurors, as you might imagine, this is another juncture  
25 where I need to talk to the attorneys, so we'll take our break

1 now for 20 minutes. What I expect will happen when you return  
2 is that we'll move into the final stages of the trial. Okay.

3 Thank you.

4 THE CLERK: All rise for the jury.

5 THE COURT: And I should remind you, all of my  
6 cautionary instructions still remain since you don't have the  
7 case yet for your deliberations. Thank you.

8 (Jury left the courtroom.)

9 THE COURT: Everyone can be seated.

11:07 10 Mr. Lopez, obviously I've heard that Mr. Crater rests.

11 Mr. Crater, is your position about not testifying  
12 still the same?

13 THE DEFENDANT: Yes, your Honor.

14 THE COURT: Okay. And your answers to all the  
15 questions I asked you this morning in that regard are still the  
16 same?

17 THE DEFENDANT: Yes, your Honor.

18 THE COURT: You can be seated. Thank you.

19 Counsel, Mr. Lopez, do you need to be heard now that  
11:08 20 you've rested?

21 MR. LOPEZ: I do, your Honor. I move for an acquittal  
22 on all counts pursuant to Federal Rule of Criminal Procedure  
23 29(a). Starting first with the unlicensed money transmitting  
24 business, there's been absolutely no evidence in this case --

25 THE COURT: Can you speak just a little louder. Thank

1 you.

2 MR. LOPEZ: There's been absolutely no evidence in  
3 this case that any money was transmitted through My Big Coin  
4 Exchange at any time. And so the government has failed to even  
5 show by a preponderance of the evidence that there was any  
6 money transmitted through that exchange. And so we should  
7 certainly get an acquittal.

8 With respect --

9 THE COURT: That was as to Count Eight?

11:09 10 MR. LOPEZ: Yes.

11 (Discussion off the record.)

12 THE COURT: Mr. Lopez.

13 MR. LOPEZ: With respect to the money laundering  
14 charges, I point out that the government didn't charge  
15 Mr. Crater with depositing funds that came from criminal  
16 activity. They have charged him with withdrawing funds that  
17 came from criminal activity.

18 My argument is how could those funds, if they weren't  
19 criminally derived when they were deposited, how could they  
11:09 20 somehow become criminally derived thereafter?

21 In addition, there were more funds in that account  
22 than were entered through this My Big Coin. And so the funds  
23 were commingled, but the caselaw is clear that mere commingling  
24 is not sufficient. You have to show that the monies that were  
25 actually transferred were criminally derived and they were

1 greater than \$10,000. The \$10,000 has been established. I  
2 don't dispute that. The government has not shown that those  
3 funds were criminally derived.

4 THE COURT: And now you're moving to the monetary,  
5 right, to the monetary transaction charges?

6 MR. LOPEZ: Correct, yes.

7 THE COURT: Okay. Anything else, counsel?

8 I should say I assume you're also still relying on the  
9 memo for judgment of acquittal you filed after the close of the  
11:10 10 government's case, which I've had a chance to review.

11 MR. LOPEZ: Yes, your Honor, which I believe I state  
12 in the first paragraph that it's at both stages.

13 THE COURT: Sure.

14 MR. LOPEZ: And with respect to the wire fraud, it's  
15 my weakest argument. I don't think they have shown that  
16 Mr. Crater was doing anything other than acting in good faith,  
17 but I would understand if the Court would allow that to go to  
18 the jury.

19 THE COURT: Understood, thank you.

11:11 20 Mr. Markham or Mr. Moore, I'll hear you. Obviously if  
21 you want to focus on counts -- the latter counts, the unlawful  
22 monetary transactions and the money transmitting business  
23 charges.

24 MR. MARKHAM: Yes, your Honor.

25 So for the unlawful monetary transactions,

1 Ms. Brekenfeld testified that the money that came into the  
2 Wells Fargo account was for My Big Coin investments from  
3 Mr. Lynch, which she based also off of Mr. Lynch's testimony  
4 that that money went in for My Big Coin investments.

5 She then testified that that same money was  
6 transferred, far more than \$10,000, to Randall Crater's  
7 personal Bank of America account. It wasn't a commingling  
8 issue. Essentially the entire the account was filled with My  
9 Big Coin funds at the time it was transferred. That was her  
11:12 10 testimony.

11 Do you want anything more, your Honor, before I go to  
12 Count Eight?

13 THE COURT: No, I understand.

14 Count Eight.

15 MR. MARKHAM: Yes, your Honor. For Count Eight what  
16 we've demonstrated is the My Big Coin Exchange was clearly  
17 advertising itself as a currency exchange. And what you've  
18 heard from witnesses is that they believed that the My Big Coin  
19 Exchange worked because they either heard that from the  
11:12 20 defendant himself or from someone like Mr. Gillespie. Based on  
21 that alone, that charge can go to the jury.

22 But what we've also shown is through the money  
23 transfers is that when people were posting things on the My Big  
24 Coin Exchange for sale, that that money for that sale came from  
25 Randall Crater's bank account, and we've shown that there are

1 checks that say things like "coin buyback."

2 So when you look at the jury instruction that such  
3 receipt for transmission is unlawful if it is incident to an  
4 unlicensed money transmitting business, that's what the  
5 government has shown. That it's, at a minimum, incident to the  
6 money transmitting business that is My Big Coin that sells  
7 virtual currency in exchange for U.S. dollars.

8 THE COURT: Thank you.

9 Counsel, I appreciate the arguments on either side.  
11:13 10 As Mr. Lopez appropriately anticipated, I'm going to allow  
11 Counts One through Four for the -- the wire fraud counts to go  
12 to the jury.

13 My ruling as to the other counts is the same as well.

14 As to wire fraud, I think a reasonable jury could find  
15 all of those elements beyond a reasonable doubt.

16 I understand the arguments about Mr. Crater's intent  
17 to defraud, but that will be for the jury to decide, and  
18 there's sufficient evidence proffered by the government here  
19 and also considering all of the evidence.

11:14 20 On the unlawful monetary transactions, I do think a  
21 reasonable jury could find all of these elements beyond a  
22 reasonable doubt, also in regards to what was coming into the  
23 accounts and the origin of same.

24 And then the unlicensed money transmitting business.  
25 I understand, Mr. Lopez, your argument, but I do think a

1 reasonable jury could find based on all of the evidence here a  
2 basis for each of those elements.

3 So your motion and your objection is preserved for the  
4 record on Mr. Crater's behalf.

5 Counsel, I just wanted to say a few things.

6 Obviously, if I were to make Petrozziello findings, it  
7 would be now after the close of all evidence.

8 I don't think, as I suggested yesterday or earlier  
9 this week, I don't think I'm required to make those here.

11:15 10 The admissions of statements of the party opponent,  
11 that is statements of Mr. Crater, I allowed under multiple  
12 sections of Federal Rule of Evidence 801(d)(2), Subsection (A),  
13 the defendant's own statements, either in his individual or  
14 representative capacity on behalf of My Big Coin; (B), that  
15 Mr. Crater, as to certain of the statements, manifested that he  
16 adopted or believed them to be true; or (C), was made by a  
17 person whom the party, Mr. Crater, authorized to make the  
18 statement on the subject, and I think there's sufficient  
19 evidence, basis for those admissions, or that statements were  
11:16 20 made by Mr. Crater's agent or employee on a matter within the  
21 scope of that relationship and while it existed.

22 I think multiple of these bases apply and I considered  
23 them in the admission of certain statements that came in as  
24 statements of a party opponent for the purposes of 801(d)(2).

25 For all those reasons I need not reach whether or not

1 any of them might also be admissible under 801(d)(2)(E), which  
2 is as co-conspirator statements, which would require  
3 Petrozziello findings, given that I admitted these statements  
4 on the alternative bases.

5 As I noted before, certainly no formal conspiracy  
6 charge is required for conspiracy to be invoked or to warrant  
7 Petrozziello findings, but I just note that no conspiracy  
8 charge has been -- is charged here and now having heard all of  
9 the evidence, that has not been the government's theory of the  
11:17 10 case from a factual point of view.

11 For all those reasons, I don't think it's necessary to  
12 make Petrozziello findings.

13 Mr. Lopez, your objection in this regard is preserved  
14 as well.

15 MR. LOPEZ: Thank you, your Honor.

16 THE COURT: Counsel, we're going to take until 11:30.  
17 I'll start with Part I of my charge, and we'll then go into  
18 closing arguments, the government and then Mr. Lopez and then  
19 the government's rebuttal. And then we'll go straight into  
11:17 20 Parts II and III of my charge, and then, probably by the time  
21 all of those things happen, it will be time for their lunch  
22 anyway, so we'll be giving them the case at the same time that  
23 hopefully their lunch will be upstairs.

24 Counsel, anything else I should address now?

25 Counsel, I can't remember if you used it in the

1       openings, but you can certainly move the podium if you want to  
2       use it for closings.

3                    MR. MARKHAM: Thank you, your Honor. Nothing else  
4       from the government.

5                    THE COURT: Mr. Lopez.

6                    MR. LOPEZ: Nothing else at this time, your Honor.

7                    THE COURT: Thank you.

8                    THE CLERK: All rise.

9                    (Recess taken.)

11:34 10                    THE COURT: Counsel, if we can get the disk to  
11       Ms. Hourihan so she can upload the exhibits during closings.

12                    MR. MARKHAM: Yes, Your Honor. We're still working on  
13       it as fast as we can.

14                    THE COURT: Okay. Thank you.

15                    When you have the disk, just bring it up so we can try  
16       to do that before the jury comes out.

17                    Counsel, Mr. Lopez, we're bringing the jury down.  
18                    Counsel, it's my practice to just take the two jurors at the  
19       end, 13 and 14, and make them our alternates. And I will have  
11:36 20       them stay separate from the deliberating jury in a separate  
21       space and I'll remind them of the cautionary instructions. And  
22       usually, if the deliberations go into another day, I would have  
23       them come back and do the same thing.

24                    Counsel, does anybody need to be heard on that?

25                    MR. MARKHAM: No, Your Honor, not from the government.

1 MR. LOPEZ: No, Your Honor.

2 THE CLERK: All rise for the jury.

3 (Jury entered the courtroom.)

4 THE CLERK: Court is in session. Please be seated.

5 THE COURT: Jurors, as I said, we're moving into the  
6 final stages of the trial at this point. I will give you Part  
7 One of my jury charge to you now. Then you'll hear closing  
8 arguments, and then I'll give you the final two parts after  
9 closing arguments before you begin your deliberations. Just so  
11:37 10 you know, you can feel free just to listen to my jury charge.  
11 You will get a hard copy of it, along with a verdict form, and  
12 you will also get an electronic copy which will be uploaded to  
13 the JERS system. You probably saw that flat screen TV in the  
14 jury room. That's so you can all look at the exhibits that  
15 have been admitted together if you choose to, and my jury  
16 charge, a copy of the jury charge and the verdict form will  
17 also be on that system.

18 Jurors, to begin my charge, it is your duty to find  
19 the facts from the evidence admitted in this case. To those  
11:38 20 facts you must apply the law as I give it to you. The  
21 determination of the law is my duty as the presiding judge in  
22 this court. It is your duty to apply the law exactly as I give  
23 it to you, whether you agree with it or not. That means that  
24 you must decide the case solely on the evidence before you and  
25 according to the law. In following my instructions, you must

1 follow all of them and not single out some and ignore others.  
2 They're all equally important. You must not read into these  
3 instructions, or into anything I may have said or done, any  
4 suggestion by me as to what verdict you should reach. That is  
5 a matter entirely up to you to decide.

6 To help you understand and remember these instructions  
7 on the law, I'll divide them into three parts. First, opening  
8 general instructions. Second, instructions about the charges  
9 in this case and about the law you must apply in considering  
11:39 10 those charges. And third, some general instructions about the  
11 procedures during your deliberations.

12 I'm delivering the first part of the instructions  
13 before you hear counsel's closing arguments so you have a  
14 general framework for hearing those arguments. I'll deliver  
15 the second part about the elements of the charges and the third  
16 part about the procedures during your deliberations after the  
17 closing arguments and before you begin deliberations. All of  
18 my instructions, all three parts, are part of my final jury  
19 instructions and are all equally important and comprise the law  
11:39 20 that you must consider and apply in this case.

21 Every person accused of a crime is presumed to be  
22 innocent unless and until his or her guilt is established  
23 beyond a reasonable doubt. The presumption is not a mere  
24 formality. It is a matter of the most important substance.  
25 The presumption of innocence alone may be sufficient to raise a

1 reasonable doubt and to require the acquittal of a defendant.  
2 The defendant before you, Mr. Randall Crater, has the benefit  
3 of that presumption throughout the trial, and you are not to  
4 convict him of any particular charge unless you are persuaded  
5 of his guilt of that charge beyond a reasonable doubt. The  
6 presumption of innocence until proven guilty means that the  
7 burden of proof is always on the government to satisfy you that  
8 Mr. Crater is guilty of the crime with which he's charged  
9 beyond a reasonable doubt. The law does not require that the  
11:40 10 government prove guilt beyond all possible doubt. Proof beyond  
11 a reasonable doubt is sufficient to convict. This burden never  
12 shifts to the defendant, Mr. Crater. It is always the  
13 government's burden to prove each of the elements of the crime  
14 charged beyond a reasonable doubt by the evidence and the  
15 reasonable inferences to be drawn from the evidence. The law  
16 does not require defendant to prove his innocence or to produce  
17 any evidence. The defendant, Mr. Crater, has the right to rely  
18 upon the failure or the inability of the government to  
19 establish beyond a reasonable doubt any essential element of  
11:41 20 the crime charged against him.

21 If, jurors, after fair and impartial consideration of  
22 all the evidence you have a reasonable doubt as to Mr. Crater's  
23 guilt of a crime charged, it is your duty to acquit him of that  
24 crime. On the other hand, if after fair and impartial  
25 consideration of all the evidence you are satisfied beyond a

1 reasonable doubt of Mr. Crater's guilt of a crime charged, you  
2 should vote to convict him.

3 The defendant, Mr. Crater, has a constitutional right  
4 not to testify and no inference of guilt or anything else may  
5 be drawn from the fact that the defendant did not testify. For  
6 any of you to draw such an inference would be wrong. Indeed,  
7 it would be a violation of your oath as a juror.

8 The evidence from which you are to decide the facts in  
9 this case consists of sworn testimony of witnesses, both on  
11:42 10 direct and cross-examination and redirect and recross-  
11 examination regardless of who called the witness. The exhibits  
12 that have been received into evidence and any facts to which  
13 the lawyers have agreed or stipulated.

14 A stipulation means, as I've told you now a few times,  
15 simply that the government and the defendant accept the truth  
16 of a particular proposition or fact. Since there's no  
17 disagreement, there's no need for evidence apart from the  
18 stipulation. You must accept the stipulation as fact to be  
19 given whatever weight you choose.

11:42 20 Although you may consider only the evidence presented  
21 in the case, you are not limited in considering that evidence  
22 to the plain statements made by the witnesses or contained in  
23 the documents. In other words, you're not limited solely to  
24 what you see and hear as the witnesses testify. You are  
25 permitted to draw from the facts that you find to have been

1 proven such reasonable inferences as you believe are justified  
2 in the light of common sense and personal experience. An  
3 inference is simply a deduction or a conclusion that may be  
4 drawn from the facts that have been established. Any inference  
5 you draw must be reasonable and based on the facts as you find  
6 them. Inferences may not be based on speculation or  
7 conjecture.

19 Circumstantial evidence is indirect evidence. That is  
20 proof of a fact or facts from which you could draw the  
21 inference by reason and common sense that another fact exists  
22 even though it has not been proved directly. To illustrate an  
23 example of circumstantial evidence, let's return to the prior  
24 example regarding the weather outside. Suppose that instead of  
25 having someone report to you about the weather conditions,

1 someone came in from outside wearing a wet raincoat and shaking  
2 water off an umbrella. Without any words being spoken, that is  
3 without any direct statement or assertion being made, an  
4 observer might conclude that it was raining outside. The  
5 observer would have some direct evidence to consider, the  
6 observation of a wet raincoat and a dripping umbrella.  
7 Thinking about those pieces of direct evidence might lead the  
8 observer to draw a conclusion or an inference about an  
9 unobserved fact, that it was raining.

17                   As I mentioned to you at the beginning of the trial,  
18 certain things are not evidence. I'm going to repeat those  
19 things to you. Arguments and statements by the lawyers are not  
11:45 20 evidence. The lawyers are not witnesses. What they say or  
21 what they said in their opening statements, closing arguments  
22 and at other times is intended to help you interpret the  
23 evidence but it is not evidence.

24                   If the facts, as you remember them from the evidence,  
25 differ from the way the lawyers have stated them or will state

1 them, your memory of them controls. Questions by lawyers  
2 standing alone are not evidence. Again, the lawyers are not  
3 witnesses. The question and the witness' answer taken together  
4 are the evidence.

5 Objections by lawyers are not evidence. Lawyers have  
6 a duty to their respective clients to object when they believe  
7 a question is improper under the rules of evidence. If I  
8 sustained an objection, in other words, if I agreed with the  
9 person objecting, you must ignore the question or exhibit and  
11:46 10 must not try to guess what the answer might have been or what  
11 the exhibit might have contained.

12 Anything you may have seen or heard when the court was  
13 not in session is not evidence. You are to decide the case  
14 solely on the evidence received at this trial. The indictment  
15 is not evidence. This case, like most criminal cases, began  
16 with an indictment. The fact that the defendant, Mr. Crater,  
17 has had an indictment filed against him is no evidence  
18 whatsoever of his guilt. The defendant has pled not guilty in  
19 this case and denies the charges in the indictment. The  
11:47 20 indictment is simply an accusation. It is the means by which  
21 the allegations and the charges of the government are brought  
22 before this court.

23 Anything that I've excluded from evidence or ordered  
24 stricken and instructed you to disregard is not evidence. You  
25 must not consider such items. A particular item of evidence

1 was sometimes received for a limited purpose only. That is, it  
2 can be used by you only for one particular purpose and not for  
3 any other purpose. I've told you when that's occurred and  
4 instructed you on the purposes for which the item can or cannot  
5 be used. Jurors, you must decide this case solely upon the  
6 evidence. You must not be influenced by any personal likes or  
7 dislikes, prejudice or sympathy. You must also not consider or  
8 be influenced by any possible punishment that may be imposed on  
9 the defendant or any other possible consequences of a  
11:48 10 conviction. Your function is to weigh the evidence in the case  
11 and determine whether the government has proved the defendant's  
12 guilt beyond a reasonable doubt solely upon the basis of the  
13 evidence.

14 The fact that the prosecution is brought in the name  
15 of the United States of America entitles the government to no  
16 greater consideration than that accorded to any other party to  
17 a litigation. For the same reason it's entitled to no less  
18 consideration. All parties, whether government or individuals,  
19 stand as equals at the bar of justice. You are to perform the  
11:48 20 duty of finding the facts without bias or prejudice as to any  
21 party. You are to perform your final duty in an attitude of  
22 complete fairness and impartiality. This case is important to  
23 the government, for the enforcement of criminal laws is a  
24 matter of concern to the community. However, it is equally  
25 important to Mr. Crater, the defendant, who faces serious

1 charges.

2 During this trial you have heard evidence of acts that  
3 the government alleges were committed by both this defendant  
4 and by other individuals. It is for you to decide, based on  
5 all the evidence in this case and the instructions as I give  
6 them to you, whether the government has proved beyond a  
7 reasonable doubt that the defendant, Mr. Crater, is guilty of  
8 the charged offenses. In so doing, you should not speculate  
9 about or consider in any way the status of other individuals.

11:49 10 The only person on trial in this case is the defendant,  
11 Mr. Crater.

12 While you may, of course, consider all of the evidence  
13 in this case, including acts that the government alleges were  
14 committed by any agents of the defendant in deciding,  
15 consistent with my instructions, whether all the evidence  
16 proves the defendant's guilt beyond a reasonable doubt, the  
17 current status of any other individual is not relevant to that  
18 determination. Your verdict, as I said, must be based solely  
19 on the evidence and the law as I've given it to you in these  
11:50 20 instructions.

21 Jurors, whether the government has sustained its  
22 burden of proof does not depend upon the number of witnesses  
23 it's called or upon the number of exhibits it's offered but  
24 instead upon the nature and the quality of the evidence  
25 presented. You do not have to accept the testimony of any

1 witness if you find the witness not credible. You must decide  
2 which witnesses to believe and which facts are true. To do  
3 this, you must look at all the evidence, drawing upon your  
4 common sense and personal experience. You may believe all of  
5 the testimony of a witness, or some of it, or none of it. You  
6 alone are the judges of the credibility of the witnesses.

7 In deciding whether to believe a witness' testimony,  
8 you may want to take into consideration such factors as the  
9 witness' conduct and demeanor while testifying, any apparent  
11:50 10 fairness or any bias they may have displayed, any interest you  
11 may discern that they may have in the outcome of the case, any  
12 prejudice they may have shown, their opportunities for seeing  
13 and knowing the things about which they have testified, the  
14 reasonableness or unreasonableness of the events that they have  
15 related to you in their testimony and any other facts or  
16 circumstances disclosed by the evidence that tend to  
17 corroborate or contradict their version of the events.

18 The testimony of a witness may be discredited or  
19 impeached by showing that he or she previously made statements  
11:51 20 that are inconsistent with his or her present testimony. You  
21 may consider that earlier statement to help you decide how much  
22 of the witness' testimony to believe. If you find that the  
23 prior statement was not consistent with the witness' testimony  
24 at this trial, then you should decide whether that affects the  
25 believability of that person's testimony at this trial.

1 Sometimes, of course, people make innocent mistakes,  
2 particularly as to unimportant details. Not every  
3 contradiction or inconsistency is necessarily important.  
4 Again, jurors, you alone are the judges of the witness'  
5 credibility.

6 Some prior inconsistent statements may be used for  
7 purposes other than impeachment. If you find that a witness  
8 has made inconsistent statements under oath on an earlier  
9 occasion, such as in a prior trial, court proceeding or by  
11:52 10 other sworn statement, you may consider that earlier statement  
11 for its truth or falsity the same as any testimony at this  
12 trial.

13 You've heard from two witnesses offered as experts in  
14 this case regarding cryptocurrency. An expert witness has  
15 special knowledge or experience that allows the witness to give  
16 an opinion. You may accept or reject such testimony. In  
17 weighing an expert's testimony, you should consider the factors  
18 that generally bear upon the credibility of a witness, as well  
19 as the expert's qualifications, including his or her education,  
11:53 20 experience and training, the soundness of the reasons given for  
21 the opinion, and all other evidence in the case. You may give  
22 the expert testimony whatever weight, if any, you find it  
23 serves in light of all the evidence in this case. You should  
24 not, however, accept a witness' testimony merely because he or  
25 she is an expert. Remember, jurors, you alone decide how much

1 of a witness' testimony to believe and how much weight it  
2 should be given.

3 That's the end of Part One of my charge. We'll now  
4 hear closing arguments.

5 Counsel, Mr. Moore.

6 MS. MOORE: Can we switch to HDMI1, please.

7 At the beginning of this case, we told you that the  
8 evidence would prove that Randall Crater defrauded investors  
9 and customers of millions of dollars through a company called  
11:54 10 My Big Coin; that he got them to invest in his company and to  
11 buy a so-called cryptocurrency through a combination of  
12 outright lies and misleading statements, and that he took that  
13 money, other people's money, and spent it to buy over a million  
14 dollars worth of jewelry and artwork and over \$200,000 on a  
15 boat.

16 You now know that's what the evidence has shown. The  
17 defendant told people that My Big Coin was a cryptocurrency  
18 even though it had no blockchain and no cryptography. He told  
19 people that My Big Coin was backed by gold even though there  
11:54 20 was no gold. He told people My Big Coin was backed by oil even  
21 though there was no oil. He told people there was a business  
22 partnership with MasterCard even though there was no  
23 partnership with MasterCard. He told people that My Big Coin  
24 was available on multiple currency exchanges and available at  
25 any time and any place even though he knew all of that was not

1 true.

2 And the people who heard those lies from the defendant  
3 and from his lackeys, the people who read the My Big Coin  
4 website and its Twitter feed and the defendant's LinkedIn page,  
5 many of those people fell for them. They believed him. People  
6 like John Lynch, who wired him over \$6 million and money from  
7 his family and closest friends, people like Jay Byrd, Peter  
8 Bell, Norman Mendiola, and the defendant, he took their money  
9 and he spent it, not on his business, on himself and his  
11:55 10 personal lavish lifestyle.

11 And later when the victims started asking for their  
12 money back, he came up with more falsehoods and excuses,  
13 falsehoods and excuses that became more outlandish the more the  
14 victims pressed him, falsehoods meant to lull his victims into  
15 a false sense of security and to convince them not to seek help  
16 from regulators or law enforcement.

17 When victims asked to meet with him, he said he was  
18 traveling to California and then to Colorado. When victims  
19 asked to talk to him, he said he was counting cash until 2:00  
11:56 20 in the morning and waiting on armored vehicles to move his  
21 cash. When victims asked him where his My Big Coin MasterCard  
22 was, he said he had mailed him My Big Coin cards but they fell  
23 behind a shelf at the UPS store. Think about that, members of  
24 the jury. He told them the cards fell behind a shelf. That is  
25 absurd. None of it was true. And of course the defendant knew

1 all of that.

2 For his scheme to deceive others, get their money and  
3 to cover his tracks, the defendant has been charged with three  
4 crimes. He's charged with wire fraud, unlawful monetary  
5 transactions, and operating an unlicensed currency exchange.  
6 Judge Casper is giving instructions on the elements of those  
7 crimes, and her instructions control. But on its most basic  
8 term, wire fraud is just a scheme to take someone's money by  
9 lying to them and using some type of interstate wire. Here,  
11:57 10 those wires were wire transfers in a bank and an email.

11 Unlawful monetary transactions is basically money  
12 laundering, sending over \$10,000 in dirty money from the scheme  
13 from one bank to another.

14 And finally, an unlicensed money transmitting business  
15 is a business that sends money without registering with FinCEN,  
16 which is a part of the United States Treasury Department that  
17 helps protect our financial system against crime.

18 Over the next 20 minutes we're going to walk through  
19 the evidence that establishes the elements of the three charged  
11:58 20 crimes beyond a reasonable doubt. Along the way, I'm going to  
21 make three points to you.

22 Point one, there was a scheme to defraud, separating  
23 people from their money with lies about a cryptocurrency  
24 business. Point two, the defendant was behind the scheme. He  
25 knew what he was doing and he knew it was wrong. Point three,

1 when you follow the money, the evidence shows that the man who  
2 was behind this scheme is the defendant, Randall Crater. In  
3 fact, you already know that nearly all of the \$6 million that  
4 victims lost in this case ended up right in the defendant's  
5 pocket.

6 Let's get to point one. There was a scheme to  
7 defraud. James Douglas told you in 2013 he was working on a  
8 money transmitting business that allowed people to use  
9 cryptocurrency to transfer money around the world. Mr. Douglas  
11:59 10 knew that running a money transmitting business had significant  
11 regulatory and registration requirements. He was given the  
12 contact information of Randall Crater as someone who could help  
13 him meet those legal requirements to run this cryptocurrency  
14 money transmitting business. You saw this on Exhibit 10B.

15 Mr. Douglas sent the defendant a FinCEN form and he  
16 wrote, We will definitely need to complete. He shares his  
17 business idea with the defendant, and the defendant assured  
18 Mr. Douglas that he could handle the regulatory requirement for  
19 the proposed money transmitting business. He didn't help James  
11:59 20 Douglas. He helped himself to Mr. Douglas' idea. He called it  
21 My Big Coin, failed to register the business, as he knew he was  
22 required to by the regulations. The defendant then set up  
23 Michael Kruger and Mark Gillespie to recruit others into the  
24 scheme in exchange for them receiving a portion of the money  
25 that those individuals invested.

1                   Now, keep in mind, this evidence not only shows you  
2 how the defendant created this scheme and was behind it, it  
3 also shows you that he was on notice of the requirement for him  
4 to register My Big Coin with FinCEN, but you know he never did  
5 that. And here is what Crater and his cohorts told their  
6 investors and customers as part of this scheme: He told people  
7 that My Big Coin was like Bitcoin, but better. He told  
8 investors, We are the only cryptocurrency to be backed by gold.  
9 He told the investors, We are partners with MasterCard. He  
12:00 10 told the investors they could use My Big Coin to send money in  
11 seconds anywhere in the world. Apart from the false statements  
12 made by the defendant on his LinkedIn page available in Exhibit  
13 1A, the defendant repeated these untrue claims on his personal  
14 Twitter page here at Exhibit 6, the MBC YouTube video at  
15 Exhibit 27, and on the MBC Twitter page here at Exhibit 28, and  
16 on the Facebook page at Exhibit 30.

17                   The defendant was behind all those false claims. How  
18 do you know that? For one thing because the defendant repeated  
19 those same falsehoods directly to victims. You will remember  
12:01 20 the defendant wrote, "We have 300 million in gold backing us."

21                   But here is an email the defendant received just  
22 before sending that email. The pictures of rusted barrels that  
23 you can't even see inside. He knew these pictures were not  
24 good enough to convince anybody that My Big Coin was backed by  
25 gold. He emailed John Roche that this documentation does not

1 say gold, that he needed current paperwork and not ten-year-old  
2 reports. But what did he do the very next day? He told an  
3 investor that MBC has 300 million in gold backing us. Members  
4 of the jury, that's not good faith. That's a fraud. That's  
5 the defendant's own words.

6 He also told Robert McGowan that there was 300 million  
7 in gold in a bank account in his own name. But you know there  
8 was no gold. Kathleen Brekenfeld showed you the defendant's  
9 bank account. He did not have \$100 million in his name in a  
12:02 10 bank in Spain. The bank records tell you he's never been to  
11 Spain. The travel records also show, never been to Spain. And  
12 here is how you know beyond a reasonable doubt there was no  
13 gold: Because we're sitting here. Eight years later and the  
14 only gold that Randall Crater has is the jewelry that he  
15 purchased for himself and his family.

16 He purchased that jewelry and gold with other people's  
17 money. Members of the jury, that's not good faith. That's a  
18 fraud. And you can convict the defendant on the basis of the  
19 email exchange at 12E, 12F, and 12G alone. Write that down.

12:03 20 And you know why the defendant told these stories  
21 about gold. Pamela Clegg testified that cryptocurrencies with  
22 real world assets increase the value of the coin and makes them  
23 more stable, and that's why the defendant made up that story.  
24 Because he knew it would help convince people to invest, and  
25 that's exactly what happened.

1                   You heard several investors, John Lynch, Peter Bell,  
2 Jay Byrd, Norman Mendiola, and they all tell you how the  
3 gold-backing claim was important to them. And common sense  
4 tells you that's true. Of course it matters to investors  
5 whether or not there's \$300 million in solid gold backing a  
6 cryptocurrency. Of course that gives them confidence.

7 Additionally, he put on the front page of the My Big Coin site  
8 that MBC is backed by gold bullion. None of his claims about  
9 gold were true, and the person behind the scam, the defendant,  
12:03 10 he knew it.

11                   He also told investors he had a partnership with  
12 MasterCard, and that was important because a deal with a giant  
13 international company like MasterCard would have lent  
14 credibility to My Big Coin. John Lynch told you that Crater  
15 told him he was directly interfacing with MasterCard, but you  
16 know that partnership was just another fabrication.

17                   You heard from Rich Audet that MasterCard has no such  
18 deal with My Big Coin. You also know that beginning in March  
19 2014 investors were told they would receive a My Big Coin  
12:04 20 MasterCard, that they could use that card to make purchases  
21 using the coins in their account, not cash loaded onto the  
22 card, but coins from the MBC account. Once again, it wasn't  
23 true. Instead of a card linked to a cryptocurrency, the  
24 victims were sent a generic prepaid debit card that didn't even  
25 say "My Big Coin" on it. To use this generic prepaid debit

1 card, they had to load their own money onto the card. This is  
2 the type of generic prepaid debit card you can buy at any CVS  
3 in the country after paying a five-dollar loading fee. Paying  
4 five dollars to CVS does not make you a partner with  
5 MasterCard. You heard Lynch, Byrd, Bell, and Mendiola tell you  
6 that the cards they received were worthless. And the person  
7 behind the scheme, the defendant, he knew he was sending people  
8 worthless cards.

9  
12:05 10 The defendant also told people that My Big Coin can be  
sent instantaneously around the world and was being utilized by  
11 businesses, that it could be used any time, any place. And you  
12 know if that were true, it would have made My Big Coin very  
13 valuable.

14 Now, the defense has attempted to suggest that My Big  
15 Coin was actually something called a permissioned blockchain,  
16 that was not available to the general public. But that's not  
17 what the defendant told investors. That is not what he said on  
18 the My Big Coin Twitter page. It says, "Start accepting online  
19 payments instantly. No paperwork. No approval process." No  
12:06 20 paperwork and no approval process is not a permissioned  
blockchain. John Lynch, Peter Bell, Jay Byrd and Norman  
21 Mendiola all told you the defendant and his lackeys told them  
22 that My Big Coin was like Bitcoin, and they were never told My  
23 Big Coin was a permissioned blockchain.

24  
25 The defendant's own expert admitted that being

1 available any time and any place is not consistent with a  
2 permissioned blockchain. And common sense tells you that's  
3 true. And of course, there's no evidence to support the  
4 defendant's claim. You heard from Pamela Clegg that actual  
5 cryptocurrencies, like Bitcoin, have publicly available  
6 blockchains. MBC didn't. In fact, Clegg told you that My Big  
7 Coin did not even exist until January 28, 2017, after the  
8 government's investigation had started and after the defendant  
9 was aware of this investigation. Even the defendant's own  
12:07 10 expert told you he saw no evidence, no evidence at all, that My  
11 Big Coin existed as a cryptocurrency before that date. The  
12 whole time he was telling investor stories he didn't even have  
13 a cryptocurrency to sell. All he had was falsehoods about what  
14 My Big Coin was, how it could be used, what it was worth and  
15 what supported its value, falsehoods to get people to buy coins  
16 and invest in the company, to get them to send the defendant  
17 their money. That was the scheme.

18 That brings us to the second main point. The  
19 defendant was behind the scheme. He knew what he was doing and  
12:07 20 he knew it was wrong. One way you knew the defendant executed  
21 the scheme is that beginning in early 2014, it was the  
22 defendant and his lackeys who used the My Big Coin website,  
23 social media and in-person meetings and emails to solicit  
24 potential investors. It was the defendant who sent Kruger and  
25 Gillespie across the country with the promise they would

1 receive a portion of the monies they collected. He paid them.  
2 And he was behind the lies that they told, lies that, as we  
3 just saw, the defendant also told directly. And when they  
4 found an individual who wanted to invest in coins they were  
5 given, they would give the investor instructions for sending or  
6 wiring the money for the investment to accounts controlled by  
7 the defendant, Randall Crater.

8 Another way you know the defendant executed the scheme  
9 is that the defendant had exclusive control over the My Big  
12:08 10 Coin Exchange. Investors were told they could track their coin  
11 purchases and the fluctuating value of coins, but you know that  
12 in reality it was the defendant who manually tracked coin  
13 purchases and information about funds from the victims.

14 You heard from Lynch that he had to regularly email to  
15 have his account corrected and the account of his family and  
16 friends also updated. And you saw in the defendant's own words  
17 when people had issues with his exchange, he was the one they  
18 went to in order to fix the issues, and he told an investor, "I  
19 did it myself. I know it got done." That's right here in  
12:09 20 Exhibit 13B.

21 And here is what else you know: The defendant was  
22 simply making up the prices for transactions while telling  
23 investors that the price of coins fluctuated based on trading  
24 in coins. You heard from Peter Bell that Gillespie told him  
25 that Crater set the prices wherever he wanted. This false

1 representation that MBC prices is based on supply and demand  
2 when, in fact, the defendant was just making them up is more  
3 evidence that the defendant knew what he was doing. And he  
4 knew it was wrong.

5 Here is what else you know: The defendant set this  
6 whole thing up to insulate himself, to make it harder to tie  
7 the money back to him. When victims sent their money, he  
8 directed the funds to be wired to an account in the name of his  
9 mother and his sister. He then would wire the money from those  
12:10 10 accounts to his personal bank account or he simply spent the  
11 money directly from the accounts. Think about that. He used  
12 his family to shield himself.

13 You heard from his sister Kimberly Benge that the  
14 defendant instructed her to open this Wells Fargo account and  
15 that he had exclusive control over the account, including the  
16 checkbook, after she opened it. You've seen the checks with  
17 forged signatures that the defendant utilized on his shopping  
18 sprees. Those are available at Exhibit 2C.

19 And you saw the forged employment agreement later --  
12:10 20 earlier today. And when people bought shares in My Big Coin,  
21 the defendant, he took that money. He spent it on himself. He  
22 didn't invest that money in the business. He spent it at the  
23 Southampton Jewelry Exchange and at Lord & Guy. He went to  
24 Gucci. He went to Louis Vuitton. He could afford all of these  
25 extravagances because he was spending other people's money.

1                   And when investors started asking for their money  
2 back, he stalled. He told them more falsehoods. Here are just  
3 three examples of this here on the monitor: He told them,  
4 You'll be paid Monday. But you heard Monday never came. He  
5 said a wire was 100 percent sent and that the investors had  
6 nothing to worry about at all. Here we are five years later  
7 and that wire that was 100 percent sent still hasn't shown up.  
8 He even said that the NFL was going to get involved with My Big  
9 Coin. All lies straight from the defendant to investors.  
12:11 10 Three examples right here on your screen, members of the jury.  
11 Lying is not good faith.

12                   But by April 2015 the defendant was simply running out  
13 of other people's money to spend. His bank accounts were  
14 overdrawn and regulators were starting to catch on to the  
15 scheme. So what did the defendant do when he found out the  
16 CFTC was investigating? He simply just made up more lies. He  
17 told John Lynch that he was counting cash all night. He said  
18 he was waiting on armored trucks to move his cash. He sent out  
19 those generic prepaid debit cards and told customers he was  
12:12 20 going to load them with money that they had invested in My Big  
21 Coin. Money he didn't have because he had already spent it on  
22 himself and his lavish lifestyle. He told investors not to  
23 worry because he would rather bankrupt My Big Coin and give  
24 them access to the gold than let harm come to them. You know  
25 harm did come to them. You heard from Mr. Mendiola that he was

1 working as a valet driver, invested his savings and he never  
2 saw a single nugget of that gold. That is not good faith.

3 He took other steps to slow down the CFTC  
4 investigation as well. He told Lynch to claim that he was My  
5 Big Coin's lawyer, to invoke the attorney-client privilege.  
6 And Lynch told you what that means. It means don't talk.

7 And then after Lynch had been trying to set up a  
8 meeting with the defendant for over a year, he finally agreed  
9 to meet Lynch in person on John 5, 2017. It's no coincidence  
12:13 10 that this in-person meeting happened just one month before  
11 Lynch was scheduled to testify in front of the CFTC. It's also  
12 no coincidence that during this meeting the defendant promised  
13 Lynch additional coins.

14 And then on June 28, 2017, three years after the  
15 defendant began this scheme, he finally created some semblance  
16 of a cryptocurrency. And you know from Pamela Clegg there is  
17 evidence that after this currency was finally created on June  
18 28, 2017, there was evidence of bogus trading back and forth  
19 between the same people to make it look like this was an active  
12:14 20 trading market when, in reality, it wasn't.

21 And you know why he did that. Because Lynch was  
22 scheduled to testify in front of the CFTC just a few weeks  
23 later in July of 2017. So at this point it was critical to  
24 make it look like the currency was real and there was trading  
25 in it. Fake trades is not good faith either.

1                   And that brings us to our third point. Despite all  
2 his efforts to cover his tracks, to wash his dirty money  
3 through unlawful transfers and to cover up his crimes,  
4 following the money trail leads directly back to the defendant.  
5 Nearly all of the \$6 million in investor and customer money,  
6 other people's money, went to line the defendant's own pockets.  
7 He spent that money on himself and his lavish lifestyle. That  
8 shows he controlled this scheme and he benefited the most from  
9 it.

12:14 10                   Members of the jury, this is not the story of a failed  
11 business. It's the story of a fraud, full stop. We've talked  
12 about how this evidence proves the defendant is guilty of the  
13 three charged crimes. Now let's talk about the specific  
14 counts.

15                   The wire frauds in this case are Counts One through  
16 Four. Counts One through Three are wires Lynch sent in April,  
17 May and August 2014 to the Wells Fargo account that the  
18 defendant had his sister open. Each was for over \$100,00. The  
19 parties agree that each of these wires traveled in interstate  
12:15 20 commerce, and you heard about these wires from John Lynch.

21                   Counts Five through Seven charge the defendant with  
22 unlawful monetary transactions in connection with sending  
23 victim money from the Wells Fargo account he had his sister  
24 open to his personal Bank of America account in May and June  
25 2014. Each of these transfers were for well over the

1 10,000-dollar requirement. And you heard about these  
2 transactions from Ms. Brekenfeld.

3 Count Eight charges the defendant with not registering  
4 the money transmitting business he operated. You know that the  
5 defendant never registered his business with FinCEN despite  
6 being on notice of the requirement. You saw that in Exhibit  
7 43. And common sense tells you why he didn't register his  
8 business. Because he was using it to commit fraud. He didn't  
9 want regulators asking questions about it.

12:16 10 Members of the jury, you've listened patiently and  
11 you've listened carefully to the evidence in this case. You've  
12 heard from multiple witnesses how the defendant set up this  
13 scheme, how his lies were imported, and you've seen lots of  
14 emails and other records that confirm the witness' testimony.  
15 You've seen that the person who benefited the most from this  
16 scheme was the defendant. And even though he took multiple  
17 steps to cover up the money trail, the trail still leads back  
18 to him.

19 But at the end of the day, all you need to decide this  
12:17 20 case is your common sense. Common sense tells you this was a  
21 scam.

22 THE COURT: Two minutes, counsel.

23 MR. MOORE: It's a scam to tell investors you're  
24 meeting armored trucks full of cash when you spent all of their  
25 money. It's a scam to tell investors that you are wiring their

1 money from Spain when you aren't. And it's a scam when you get  
2 people to send you money by making false claims about a  
3 cryptocurrency that doesn't actually exist, backed by gold,  
4 that you don't have, and a partnership with MasterCard that is  
5 imaginary. The defendant was behind it. The money went to  
6 him. And he is the one who spent it. Not on his business, on  
7 his own lavish lifestyle.

8 When you consider the evidence and you use your common  
9 sense, you'll know what to do. You'll return the only verdict  
12:17 10 that's consistent with the evidence in this case: Guilty on  
11 all counts. Thank you.

12 THE COURT: Thank you.

13 Mr. Lopez.

14 MR. LOPEZ: Thank you, Your Honor.

15 Good morning, ladies and gentlemen of the jury. To  
16 begin with, I want to thank you for the time and attention that  
17 you've given to this case. I know that this has been a major  
18 disruption to your lives, to your families, and it's been a  
19 long trial. So your service here is greatly appreciated by  
12:19 20 Mr. Crater and myself and by the Court and by the prosecution.

21 Now, it's a solemn responsibility to sit as a juror.

22 Mr. Crater has literally put his life in your hands. The  
23 impact on his life of the decisions you make in this case will  
24 affect him for the rest of his life. And it's an awesome  
25 responsibility to judge another individual.

1                   Now, this is the last time you'll hear from the  
2 defense in this case. We have no rebuttal. The government  
3 gets to rebut what I tell you briefly, but this is the last  
4 chance I get to speak to you.

5                   Now, the Court has told you that you are the finders  
6 of fact in this case, you and only you.

7                   This case has been a very interesting case. We're  
8 relying upon the oath that you took to judge this case fairly  
9 and impartially. In this case, the government has the burden  
12:20 10 of proof and Mr. Crater is presumed innocent. And yet, the  
11 government's entire case has been trying from the outset to  
12 shift the burden of proof to Mr. Crater. I submit to you that  
13 the government has misunderstood this case from the outset.  
14 The government doesn't really know what a cryptocurrency is.  
15 All the government knows is that there was money that changed  
16 hands. It ended up in Mr. Crater's hands and he spent it,  
17 let's call it frivolously. But that's not a crime.

18                   The investigation in this case was so inept that it's  
19 remarkable. They had the opportunity to get Mr. Lynch's  
12:21 20 wallet. Mr. Lynch had a backup of his wallet. They spent  
21 hours and hours upon hours with Mr. Lynch preparing him for his  
22 testimony, making sure that he followed the script right down  
23 to the letter. And yet they never once asked him for his  
24 wallet. His wallet would have been able to allow a forensic  
25 software engineer to determine exactly My Big Coin was, exactly

1       whether or not it was a cryptocurrency. They didn't do it.  
2       They didn't do it because they rushed to a judgment that  
3       because he received a lot of money and he spent it, he must be  
4       a criminal.

5               You know, England had Shakespeare and Scotland had  
6       Robert Burns. I don't know if some of you are familiar with  
7       Robert Burns, but he brought poetry to the masses, and he's  
8       widely considered to be the national poet of Scotland. His  
9       poems would usually deal with big ideas. And he wrote a poem  
12:23 10      entitled To a Mouse. And in that poem a mouse has spent a lot  
11      of time making a nest. And Robbie Burns, who is a farmer,  
12      destroys it by plowing his fields. The purpose of the poem is  
13      to apologize to the mouse. Robbie understands that this mouse  
14      has put an awful lot of time and effort into his nest and he's  
15      destroyed it because he's a farmer. In the poem he's feeling  
16      guilty about destroying the mouse's nest and he wants to make  
17      clear to the mouse that he's sorry.

18               The poem isn't so much about the mouse itself. It's  
19      more about the fact that sometimes no matter how well you plan  
12:23 20      something, it can be taken away and destroyed in a matter of  
21      minutes. Thus, the phrase "The best laid plans of mice and men  
22      often go askew."

23               What does that poem have to do with this case? Well,  
24      I submit to you, ladies and gentlemen, that Mr. Crater is the  
25      mouse and the farmer is the government.

1                   There was no search for truth in this case. There was  
2 no thorough investigation. They didn't even understand  
3 cryptocurrency. They relied upon what they were told and they  
4 didn't even verify that what they were told was actually the  
5 truth. They never even questioned Mr. Crater. They never  
6 approached him. They never offered him an opportunity to  
7 explain himself. And they didn't know about Mr. Galvin, did  
8 they? Think about that. There was no gold. We know that now.  
9 Do we know that because the government told you? No. We know  
12:25 10 that because the defense hired a private investigator who found  
11 Mr. Galvin and verified that the representations about the gold  
12 that Mr. Donahue was making to Randall Crater and My Big Coin  
13 was a fraud.

14                   Yes, Mr. Crater relied upon what Mr. Donahue told him.  
15 Now you know the truth. The government didn't.

16                   All the way back in March of 2014, in Exhibit 11L,  
17 Mr. Crater thought he had a deal for gold with Mr. Donahue. He  
18 signed a contract to that effect. He then made sure that  
19 Mr. Donahue signed the contract. That's in 11N. Mr. Roche  
12:26 20 wrote to Mr. Crater -- and, by the way, we know now that Billy  
21 Donahue was Mr. Roche's friend, and we don't know what role  
22 Mr. Roche had because the government never investigated him.  
23 And Mr. Roche writes to Mr. Crater on March 24, 2014 in 11O,  
24 "Something of this nature not disclosing a whole lot, have an  
25 attorney clean it up. Gold bullion has followed certified AU

1 metals endures bars from a gold bullion minimum 999.5 percent  
2 or better," et cetera, et cetera.

3 So not only is Mr. Donahue lying to Mr. Crater but so  
4 is Mr. Roche. And then we have, in November of 2014, another  
5 contract signed by Mr. Donahue with Mr. Roche for another \$100  
6 million. And then in January, January 15 of 2015, we get to  
7 12A. And in 12A, we now know that there were barrels and  
8 barrels and barrels depicted to Mr. Crater that there was gold  
9 bullion, that there was gold in them hills. And we now know  
12:27 10 from Mr. Galvin there was, in fact, gold in those 500 barrels.  
11 The only problem is that Mr. Donahue didn't have any ownership  
12 interest in them. Nevertheless, he represented in a document,  
13 the investment document, that he was the director and principal  
14 facilitator and fund manager for Galvin Investments LLC. We  
15 now know that that had nothing to do with MBC, My Big Coin, but  
16 Randall Crater didn't know that in January of 2015.

17 Mr. Donahue even went so far as to send in assays and  
18 you'll see in 12A there is even a value put on these 500  
19 barrels. I would place -- this is a letter from Dr. Robert  
12:29 20 Finch, a nuclear chemist that Mr. Galvin mentioned. And in  
21 that he says, "However, to the best of my ability, I would  
22 place a minimum value in excess of one billion, \$198 million  
23 providing we can extract all PGMs and other rare earth metals."  
24 That was sent to Mr. Crater. Mr. Crater is not a nuclear  
25 chemist. He didn't even graduate from high school. He's got a

1 GED. But to the average person who doesn't know any better,  
2 that looked pretty authentic. And, in fact, Mr. Galvin told  
3 you that was authentic, and resumes upon resumes of different  
4 assayers.

5 And then on January 15 -- on January 16, 2015,  
6 Mr. Donahue in 12C writes, "Our product is in a Texas U.S.  
7 federal bonded warehouse." I'll read that again. "Our  
8 product," meaning my product and your product MBC "is in a  
9 Texas U.S. federal bonded warehouse." And we now know from  
12:30 10 Mr. Galvin it was located in a Texas warehouse. Do we know  
11 that because of the government's investigation? No.

12 And then on the 26th of January, Mr. Donahue sends  
13 Mr. Crater in 12D, another document which says, "We'll get this  
14 updated but it shows that the product is in a secure storage  
15 facility and is there. In most cases, the bank will want to  
16 send an inspector to the facility when they want to confirm."  
17 And then behind that we have page after page after page of what  
18 we now know is an invoice for the storage of those 500 barrels  
19 of concentrate. We know that because Mr. Galvin testified to  
12:31 20 that. Not because of the government's investigation.

21 And then, on January 27, 2015, which the government  
22 has pointed out a number of times, Randall is writing an email  
23 which says, "Billy, thanks for what you have supplied us thus  
24 far. Yet our biggest concern is that the word 'gold' isn't  
25 mentioned anywhere in either of the documents you forwarded to

1 us." He's referring to this document and the warehouse  
2 receipt.

3 So Mr. Crater, even at a time when he's being fed all  
4 of this misinformation, he still has the wherewithal to say,  
5 "Hey, there's something not right here." But he's being told  
6 that it's worth a lot of money. And then, and the government  
7 really harps on this one, he writes an email to John Lynch,  
8 "And we have 300 million in gold backing," 12G. Well, I submit  
9 to you, and it's not our burden to prove anything, but this is  
12:32 10 the only time Mr. Crater put anything in writing that said 300  
11 million. Was it a typo? I don't know. But it's not our  
12 burden. But Mr. Crater did honestly believe that he had \$100  
13 million in backing.

14 And then a day later, on January 29, William Donahue  
15 sends another letter to him that says "Attached as requested."  
16 Well, the request in 12H was, "Great. Thank you, Billy. Wow,  
17 I just need a letter from Galvin stating we can use the gold  
18 and we are golden, brother. Call later to tell me who to issue  
19 stock to." That's Mr. Roche talking to his brother Billy  
12:33 20 Donahue about what he needs from Galvin. And lo and behold, an  
21 email turns up from Mr. Galvin, "Attached as requested,  
22 Harmonie is the authorized partner, asset managing partner,  
23 fund manager, principle facilitator and trader for H.I. Galvin  
24 relationship portfolio, H.I. Galvin, Harmonie International  
25 Galvin relationship portfolio. Plus I am a trusted director.

1 When do we start speaking with underwriting to coordinate when,  
2 where and with whom. We keep performing and we still see no  
3 confirms of back office progress. Tons of work to do when  
4 going public, and we are not seeing any plans of the next step  
5 launch and road show events" and so on and so on.

6 Well, we now know from Mr. Galvin that Mr. Donahue  
7 said, "Just cut and paste this and send it to me. I need it."  
8 And so in Exhibit 48, that's exactly what Mr. Galvin did, not  
9 knowing the significance of his actions.

12:34 10 And then, in April we get another email from  
11 Mr. Donahue stating, "Here is the updated documentation in 12E,  
12 and that's, again, a list of the warehouse invoice with the 500  
13 barrels of minerals. Not gold. Not completely all gold.

14 Now, you would think after a thorough investigation  
15 into this matter the government would have uncovered that  
16 obvious glaring issue and yet they come before you today and  
17 they say to you, Oh, no, Mr. Crater thought up this scheme.  
18 They then take a bunch of different disjointed statements here  
19 and there and they make up a story about what went down here.  
20 And that story is just that, a story. It's not proof.

21 Now, we now know that Mr. Crater was defrauded by Bill  
22 Donahue. The evidence does not prove that Mr. Crater knowingly  
23 defrauded anyone. Now, granted, there were many statements  
24 made. Some of them accurate, some of them not. Some of them  
25 mistakes, some of them innocent.

1           But let's get to really the money transmitting charge,  
2 for example. The government's own witness admitted that he  
3 could not tell from looking at the My Big Coin Exchange site  
4 whether it was in fact a money transmitting company. The  
5 government never proved that any money was transmitted through  
6 that exchange site. It's not Mr. Crater's burden to prove that  
7 it didn't work. It's their burden to prove that it did work  
8 and they have failed miserably to do so.

9           On the money laundering charge, note that they're  
10 talking about the withdrawals from the account. And I suggest  
11 to you that the withdrawals from the account came out of an  
12 account that had more than enough money to cover whatever  
13 monies went in from My Big Coin. And interestingly, the  
14 government doesn't mention anything about this, but they're not  
15 saying the money was criminally derived when it went in. They  
16 didn't charge him with depositing criminally deprived money.  
17 They're charging him with withdrawing money that was criminally  
18 derived. So my question to you is, how did it become  
19 criminally deprived by being kept in a bank account? And the  
20 money that was withdrawn was less than the amount of money that  
21 was in the account thereafter. So it may have been commingled,  
22 but commingling money doesn't make it illegal.

23           Now, we all know that the crux of this case is the  
24 wire fraud case. And the government has made many allegations  
25 with respect to this wire fraud and has failed to prove many of

1 them. Number one, MBC is not a cryptocurrency. What evidence  
2 did they provide to you to prove to you that it wasn't a  
3 cryptocurrency? They didn't have a forensic computer  
4 specialist look at it. They didn't try to find the nodes that  
5 had the codes. They didn't look at any of the wallets. They  
6 totally disregarded any type of investigation and then they  
7 bring an expert in who says, Well, there's no public -- you  
8 can't find anything publicly about this cryptocurrency. Well,  
9 we know from the defense's expert that there could have been a  
12:39 10 private blockchain, but then the government says, But even the  
11 defense expert admits that there's nothing publicly available  
12 about the private blockchain. Well, that's why it's a private  
13 blockchain. And if you had done an investigation and you  
14 determined that it was a private blockchain, you could have  
15 then sought to get permission and then you could have tried to  
16 evaluate what exactly was there. It wasn't done.

17 It wasn't done because, ladies and gentlemen, this is  
18 2013, 2014. Cryptocurrency is brand new. People don't  
19 understand cryptocurrency. And apparently they didn't bother  
12:40 20 to look. But it's not simple. It's very complicated. Did the  
21 government use their resources to determine what they had?  
22 Absolutely not. They just assumed a fact which never was  
23 entered into evidence.

24 I won't go back to "backed by gold." We know the  
25 government didn't prove this.

1                   Now, there was also statements about that My Big Coin  
2 couldn't be traded and exchanged for other currencies. Well,  
3 again, did the government prove that My Big Coin could not be  
4 traded and exchanged for other currencies? Did they put one  
5 witness on the stand who said, "I tried to trade My Big Coin  
6 for other currencies and was unable to do so"? No. In fact,  
7 two of their witnesses didn't even try to make a trade, and the  
8 one witness who did, Mr. Bell, well, I mean, he had -- he  
9 didn't have higher expectations than any other reasonable  
12:41 10 person would. He thought My Big Coin was like the New York  
11 Stock Exchange. That's outrageous. A startup company within  
12 the first year that says it has an exchange and he thinks it's  
13 going to be the same as a stock exchange that's been in  
14 existence for over 100 years? That's a credible statement? I  
15 suggest that Mr. Bell had other intentions. I submit that  
16 Mr. Bell was playing both sides against each other. On the one  
17 hand, he was helping the government build a case against My Big  
18 Coin, and on the other hand he was trying to profit on his  
19 investment in My Big Coin. And guess what? He did both. He  
12:42 20 hit the Trifecta, so to speak. He got twice as much back than  
21 he invested and he got My Big Coin shut down and the other  
22 investors lost their money, maybe. My Big Coin might live for  
23 another day.

24                   Now, there was an allegation that it couldn't be  
25 exchanged for other goods and services. Well, Mr. Callahan

1 told you that he had a credit card and he was able to purchase  
2 things on the credit card. But let's step back. I said at the  
3 beginning of this case that this case was about starting a new  
4 business, a new startup. And Mr. Crater had no experience in  
5 startups. He relied on other individuals. He relied on  
6 lawyers. He relied on accountants. He relied on bankers or  
7 people he thought were bankers like Mr. Donahue. He relied on  
8 Mr. Roche. He relied on others. And why did he rely on  
9 others? Because he's got a GED. So he knew that he could not  
12:43 10 do this by himself. He needed help. What did he do? He was  
11 responsible for the technology side. And we now know he's not  
12 a computer scientist. He's not a coder. He had to rely on  
13 someone else to do that. And when you rely on someone else to  
14 do something and they tell you they've done it, it's perfectly  
15 reasonable to believe it. Especially when you've paid them to  
16 do it. And that's what we're talking about with Mr. Crater  
17 here.

18 Now, it's true there were statements about the value  
19 of the coin based on actual trading. And the government has  
12:44 20 presented some evidence that there was some possibility of  
21 manipulation behind the price of the coin. And the government  
22 further alleges that Mr. Crater had exclusive control over  
23 that. But we know that's not what the evidence shows. The  
24 evidence shows that he had a head programmer in England who was  
25 responsible for putting together the website and the

1       cryptocurrency and occasionally adjusting the price of the  
2       coin. We also know, however, from Mr. Bell, who kept trying to  
3       trade, that he couldn't get anyone to trade with him at the  
4       price he wanted. Well, that's how the market works. You need  
5       a willing buyer and a willing seller. He was a willing seller  
6       but at that point in time, of the people that owned My Big  
7       Coin, there weren't any willing buyers. And again, his  
8       expectation was that it was the New York Stock Exchange and it  
9       should go just like that. (Indicating.) I don't know who ever  
12:45 10      gave him that expectation but Mr. Crater never did.

11               Ladies and gentlemen, the government's theory here is  
12       half the story. There were a lot of other things going on  
13       here. And again, Mr. Crater has no burden of proof. But we  
14       know that there was inroads into the marijuana industry and he  
15       was working on that. And, you know, they make a big deal about  
16       how, oh, he was counting his money. Well, what did he tell  
17       him? He told him that he was counting money that was in a  
18       Brinks truck, but you don't know the rest of the story. There  
19       were marijuana dispensaries that he was involved in. And so  
12:46 20       what the government does is they take little pieces of  
21       information and they speculate about what it means, and then  
22       they argue to you, We've proven that fact. I suggest to you  
23       that that's not the case.

24               Now, John Lynch, the witness who could not answer a  
25       question yes or no. He put in a lot of money. He was one of

1 these people who just was gung ho about it. Unfortunately, he  
2 testified that he did it because someone told him it was backed  
3 by gold. But that's not the way it went and he knows it. And  
4 he lied to you. And you know how I know he lied to you?  
5 Because any lawyer that keeps saying "I take my oath seriously"  
6 over and over again, who is trying to convince you that his  
7 lies are the truth isn't credible. He was in this. He brought  
8 his friends into it. He recruited more people to My Big Coin  
9 than Randall Crater did. You haven't heard any evidence that  
12:47 10 Randall Crater ever solicited one person to back, to purchase  
11 My Big Coin. The government alleges he sent out these lackeys,  
12 Mr. Gillespie and Mr. Kruger, and he offered to pay them money.  
13 Where is the proof of that? They haven't proven that.

14 Also, Mr. Gillespie was off talking, saying this,  
15 where is the proof that Mr. Crater authorized the statements he  
16 was telling to investors? Aside from the backed by gold. Now,  
17 "backed by gold," everyone was duped by that. But it didn't  
18 make the statement untrue when made because the people who made  
19 those statements believed them to be true. That's good faith.

12:48 20 Now, Jay Byrd. Well, although he denied it, he was  
21 pretty angry and he was brought into it and, I don't know, he  
22 spoke to Mr. Gillespie. I don't know what Mr. Gillespie told  
23 him. I don't know that he remembers. And interestingly, if  
24 you think about the government's witnesses and their memories  
25 and then you compare it to the memories of the witnesses the

1 defense put forward, it's striking how clear the memory was of  
2 the government's witnesses about everything in a sequence, for  
3 things that happened eight or nine years ago, and then you  
4 compare that to the witnesses that we put before you even  
5 though we have no burden to prove anything. Now, I submit to  
6 you that every one of the government witnesses has a financial  
7 incentive in this matter and that they're biased and that  
8 they're not credible.

9 Now, what about the experts? Well, they put up  
10 someone who had no software background, didn't know anything  
11 about computer science, did some reading, teaches other people  
12 one-hour and two-hour courses about blockchain. But doesn't  
13 really understand blockchain. She just understands what she  
14 read. And then she worked for a company that does this type of  
15 research and tracing, but, interestingly, if you listened  
16 carefully, she admitted, she didn't do it herself. And yet she  
17 came before you and said, This is my opinion. Well, ladies and  
18 gentlemen, I submit that she relied on her software engineers  
19 for her opinion, and those software engineers weren't here. So  
20 we don't know what they were told to her.

21 We actually presented you with a software engineer who  
22 told you that Ms. Clegg's opinion was false by omission. How  
23 do I say that? She wrote a report which talked about publicly  
24 available blockchains, but she never mentioned the fact that if  
25 it was a private blockchain, she couldn't do blockchain

1 analysis in the public arena. She didn't put that in her  
2 report. Was that a purposeful omission? Well, after she saw  
3 our report, now everything, what's publicly available, what's  
4 not publicly available, and yes, our expert did concede that  
5 private blockchains cannot be analyzed or can't do blockchain  
6 analysis unless you get permission to get into the blockchain.

7 THE COURT: Two minutes, counsel.

8 MR. LOPEZ: Now, the spending habits and the taxes. I  
9 don't have much to say about that, but he's not charged with  
12:51 10 failing to file tax returns, and his spending habits don't  
11 prove that he's guilty of anything.

12 When you go back into that jury room, think about the  
13 government's burden of proof. The facts that they say they  
14 proved to you, every single one of them, ask yourself, did they  
15 prove that fact to you beyond a reasonable doubt? And when  
16 you're weighing that, say to yourself, "I have to presume  
17 Mr. Crater is innocent unless and until they prove the facts  
18 necessary to convict him beyond a reasonable doubt."

19 Now, you have the power and obligation to act. We  
12:52 20 told you at the beginning of this trial we're going to ask you  
21 to do what no one else could do for Mr. Crater. Protect him.  
22 Protect him under the Constitution. We are asking you not to  
23 leave him at the mercy of the government any longer. We ask  
24 you to rescue him from this misguided prosecution. We ask you  
25 to give him his life back. That, ladies and gentlemen of the

1       jury, is the greatest calling of an American jury. That's what  
2       we're here to do today, to do justice, to find the truth.

3               Mr. Crater was acting in good faith throughout. And  
4       the evidence supports that. More importantly, the government  
5       hasn't proven that he was acting in bad faith. We urge you, we  
6       beg you, to find Mr. Crater an innocent man, not guilty on all  
7       charges.

8               THE COURT: Thank you. Rebuttal.

9               MR. MARKHAM: Yes, Your Honor.

12:53 10               Defense counsel just stood here and told you that  
11       Randall Crater never authorized the statement by Mark  
12       Gillespie. Mark Gillespie less than an hour ago sat on that  
13       witness stand and told you that Randall Crater told him a whole  
14       bunch of things and that Mark Gillespie then went and repeated  
15       them to investors. What are we talking about here?

16               Look at Exhibit Number 32. Mark Gillespie gets  
17       specific approval from the defendant for an email to investors  
18       which says, quote, "Randall Crater has a banking license and an  
19       elite deal with MasterCard." Those were clear lies. We've  
12:54 20       proven to you that they are clear lies. And what was the  
21       defendant's response to that email from Mark Gillespie? He  
22       said, "Looks good." He's telling them to spread these lies to  
23       investors so that he can get \$6 million and it worked.

24               The defense wants you to focus on old British poetry  
25       because they don't want you to look at the defendant's own

1 words which are filled with knowing falsehoods. All of this  
2 money was criminally derived because it was all based on lies.

3                   When you go back into the jury room, look at -- in  
4 addition to 32, look at Exhibit 39. This is the defendant's  
5 text messages to Peter Bell in 2006, and he tells him that he  
6 is in the middle of, I'm quoting, "Buying four banks for this  
7 business where you can walk up to the counter and sell coins."  
8 Was that a typo too? He says he's going to have a, quote, "big  
9 Army deal." Was that a typo? No. It's just all made-up stuff  
12:55 10 to get people's money or to keep their money. It's part of the  
11 scheme.

12                   Look at Exhibit 16, again the defendant's own words  
13 and in realtime, where he tells John Lynch in 2017 that now the  
14 NFL is getting involved. He says he's counting cash until 2:30  
15 in the morning, waiting for an armored truck in Colorado.

16                   Now, the defense says that the government didn't show  
17 you the rest of the story. Well, we did show you the rest of  
18 the story. Ms. Brekenfeld stood on that witness stand and told  
19 you that at the time he made that statement, he was not in  
12:55 20 Colorado. He was spending money in Florida. And he wasn't  
21 counting cash, he had a negative account balance. He was flat  
22 broke making false statements to investors in order to trick  
23 them to keep their money.

24                   Exhibit 11H, the defendant says that the gold is in my  
25 name in a bank in Spain. The defense just walked you through

1 email after email showing attachments of old rusty barrels and  
2 something that says 100 million dollar commitment to My Big  
3 Coin. Not a single one of those emails says that the gold is  
4 in the defendant's name. In fact, they don't say that at all.  
5 They say the opposite. None of them say that it's in Spain.  
6 You can convict the defendant on that email alone. He knew it  
7 was false and he sent it anyway to a potential investor in  
8 order to get their money.

9 Now, recognizing this evidence is absolutely  
10 devastating for his client, the defense has made a lot of  
11 statements about the government's burden in this case in terms  
12 of what we specifically have to prove that are just not  
13 accurate. What the government's going to ask you to do is  
14 listen to the Judge's instructions. The government does not  
15 have to prove that every statement ever said about My Big Coin  
16 was a fraudulent misrepresentation. The government doesn't  
17 have to prove that Randall Crater was the mastermind of My Big  
18 Coin. The government doesn't have to prove that Randall Crater  
19 was the only person who did anything wrong or that any specific  
20 victim was defrauded of any specific amount of money. To be  
21 clear, what the government has to prove is that there are one  
22 or more fraudulent misrepresentations about My Big Coin and  
23 that the defendant knowingly and willfully participated in the  
24 scheme. The government has shown that to you.

25 In terms of the wires, the government only has to show

1 that the specific wires charged were in furtherance of My Big  
2 Coin. Counts One through Three are wire transfers for My Big  
3 Coin investments. Of course those further My Big Coin.

4 And Count Four is the defendant's lie that there's  
5 \$300 million in gold. Of course that's in furtherance of the  
6 scheme. Whether it's a typo or not, it's still in furtherance.  
7 Now, all the other fraudulent misrepresentations he made mean  
8 that he's guilty.

9 For the unlawful money transmission, it's pretty  
10 simple. If you find the defendant committed wire fraud, that  
11 he knowingly and willfully participated in the scheme, you just  
12 have to find that he moved more than \$10,000 of the My Big Coin  
13 money to another account. That's it. And Ms. Brekenfeld told  
14 you from that witness stand, she went through transaction by  
15 transaction showing you that money comes in for My Big Coin  
16 into an account the defendant controlled and then he  
17 transferred it to another account he controlled.

18 Now again, the defense talked to you about these  
19 emails about \$100 million in gold. Just remember what the  
12:59 20 defendant told Robert McGowan, that the gold is in my name in a  
21 bank in Spain. That's Exhibit 11H. That was just a lie. The  
22 bank records, IRS records, and the travel records show that the  
23 defendant does not have a bank account in Spain. And the  
24 defendant knows he doesn't have a bank account in Spain because  
25 he's the defendant. He knows he's never been to Spain because

1 he's the defendant.

2 MR. LOPEZ: Objection.

3 THE COURT: Well, overruled, counsel.

4 MR. LOPEZ: Note my objection, Your Honor.

5 THE COURT: Noted. Mr. Markham.

6 MR. MARKHAM: There was no basis for the defendant to  
7 claim he had gold in his name personally anywhere. And, of  
8 course, he would want to tell investors that was the case  
9 because if he started telling people, Well, actually I got an  
12:59 10 attachment to an email from some guy I've never met who has  
11 nuclear waste product somewhere in Texas, they wouldn't give  
12 them -- him all of their money.

13 Also, don't forget what the defendant was saying in  
14 realtime when he was getting these emails. Exhibit 12B, he  
15 admits that he has no, quote, "proof," that the gold exists.  
16 Then he sends a follow up email saying, I'm quoting, "Our  
17 biggest concern is that the word 'gold' isn't mentioned  
18 anywhere in either of the documents you forwarded. We need  
19 something verifying that those barrels are filled with gold."  
01:00 20 That's Exhibit 12F.

21 And what does he do the very next day? While he's  
22 talking internally about how they don't have any proof that  
23 this stuff exists, externally to his biggest investor he's  
24 saying point blank, "I have the gold. It's 300 million. Keep  
25 sending me your money." That's not good faith. That's just

1 fraud.

2 And don't forget what happened for the next two years.  
3 Of course, the gold never came through. That's why none of the  
4 investors ever got any of their money back. Did the defendant  
5 ever take down all those social media posts saying that he had  
6 gold? Did he ever print a retraction and go to his investors  
7 and say, sorry, it turns out he didn't have it? No. He just  
8 keeps saying he has it. So he can keep taking their money and  
9 spending it on cars and jewelry and a house. It's called  
01:01 10 fraud.

11 THE COURT: Two minutes, counsel.

12 MR. MARKHAM: On the MasterCards, again, buying a  
13 prepaid MasterCard and telling people you have a deal with  
14 MasterCard is totally misleading. But most importantly, don't  
15 forget, these MasterCards did not do what he said they would  
16 do, which is spend My Big Coin currency in the real world. And  
17 if you look at Exhibit 32, the defendant is told that to build  
18 that system it takes 300 man hours and all the funding and that  
19 he didn't have it yet. He knew he didn't have it.

01:01 20 As for the cryptocurrency, just remember the  
21 government's expert and the defense's expert agrees there's no  
22 evidence this ever existed. And even in terms of their secret  
23 cryptocurrency that no one can find any evidence exists, their  
24 own defense expert said if that was the case, all the My Big  
25 Coin advertising would be fraudulent. The only cryptocurrency

1 in the world that's commercially based, available anywhere in  
2 the world in seconds, all of that would be misleading and not  
3 true. So either way, whether it's some secret cryptocurrency  
4 no one can find or they just didn't exist at all, it's still a  
5 fraud.

6 Now, he's trying to blame everyone else. Blame Bill  
7 Donahue, blame John Roche, and blame Mark Gillespie, the guy he  
8 pays to spread his lies. Blame the victims for falling for it.  
9 Blame the CFTC for actually investigating fraud. How dare they  
01:02 10 look into this company and figure out that it's a fraud, and  
11 totally ignores the defendant is the one making these  
12 statements that he knows are not true. And that's why he has  
13 to move the money into his sister's account and then move it to  
14 his account and then hide it from the IRS and then never  
15 register with FinCEN because he's hiding his fraud.

16 Don't forget there were real victims in this case.  
17 You met Norman Mendiola and this fraud mattered to him. The  
18 guy was a valet driver who pumped his savings into My Big Coin  
19 because he thought it would be safe and a good investment based  
01:03 20 on the advertising. And then the defendant went and spent that  
21 money on a house and jewelry and cars. And the fraud mattered  
22 to Jay Byrd. You heard him testify, too. He's a retiree.

23 THE COURT: Counsel, wrapping up.

24 MR. MARKHAM: Yes, Your Honor.

25 He's a retiree on a fixed income.

1                   As for Count Eight, the last one I'll address with  
2 you, you just have to find that exchanging money is unlawful if  
3 it is incident to an unlicensed money transmitting business.  
4 We've shown you the checks from Randall Crater saying these are  
5 for coin buyback and it's related to My Big Coin that's an  
6 unlicensed money transmitting business. He's transmitting the  
7 money.

8                   The defendant committed these crimes and we ask that  
9 you find him guilty on all counts. Thank you.

01:03 10           THE COURT: Thank you.

11                   Jurors, we've now come to the last two parts of my  
12 charge to you. These are the remainder of the jury  
13 instructions.

14                   I'm now going to instruct you on the nature of the  
15 crimes charged in the indictment and the elements of each  
16 offense that the government must prove beyond a reasonable  
17 doubt. The defendant, Mr. Crater, is charged with eight  
18 federal crimes: Four counts of wire fraud in violation of  
19 Title 18, United States Code, Section 1343, Counts One through  
01:04 20 Four; three counts of unlawful monetary transactions in  
21 violation of Title 18, United States Code, Section 1957, which  
22 are Counts Five through Seven; and one count of operating an  
23 unlicensed money transmitting business in violation of Title  
24 18, United States Code, Sections 1960, Section (a) and  
25 (b) (1) (B), which is Count Eight.

1                   To find the defendant guilty on any particular charge,  
2 the government must prove each of the elements of the charged  
3 offense beyond a reasonable doubt. Before addressing the  
4 elements of each of these charges, I'll first address the  
5 meaning of some important terms regarding state of mind that  
6 apply throughout the rest of my instructions.

7                   You will hear reference throughout these instructions  
8 to whether the government has proven beyond a reasonable doubt  
9 that the defendant committed certain acts knowingly, willfully  
01:05 10 or intentionally. To act knowingly means that the act was done  
11 voluntarily and intentionally and not because of mistake or  
12 accident. You may infer, but you're certainly not required to  
13 infer, that a person intends the natural and probable  
14 consequences of acts knowingly done or knowingly omitted.

15                   To act willfully means to act voluntarily and  
16 intelligently with the specific intent that the underlying  
17 crime be committed. That is to say with bad purpose. Either  
18 to disobey or disregard the law, not to act by ignorance,  
19 accident or mistake. Thus, if a defendant acted in good faith  
01:06 20 or without the purpose to disobey or disregard the law, he  
21 cannot be guilty of the crime that requires that he acted  
22 willfully.

23                   To act with intent or intentionally refers to a mental  
24 condition or state of mind, that is the state of mind with  
25 which an act is done or failed to be done. All of these terms,

1       jurors, concern the defendant's state of mind. The burden to  
2       prove intent, as with all other elements of the crime, rests  
3       with the government.

4               Because it's impossible to prove through direct  
5       evidence the inner workings of the human mind, it is frequently  
6       necessary to resort to circumstantial evidence. Thus, in  
7       deciding whether something is done knowingly, willfully or  
8       intentionally, you may consider the actions of the defendant by  
9       what he said or did, all of the facts and circumstances  
01:06 10      surrounding his conduct and any reasonable inferences to be  
11       drawn from those facts and circumstances. It is entirely up to  
12       you, the jurors, however, to decide what facts are proven by  
13       the evidence received during this trial.

14               In deciding whether the defendant, Mr. Crater acted  
15       knowingly, you may infer that the defendant had knowledge of  
16       the facts if you find that he deliberately closed his eyes to a  
17       fact that otherwise would have been obvious to him. In order  
18       to infer knowledge, you must find that two things have been  
19       established. First, that the defendant was aware of a high  
01:07 20       probability of the fact at issue. Second, that the defendant  
21       consciously and deliberately avoided learning of that fact.  
22       That is to say, the defendant willfully made himself blind to  
23       that fact. It is entirely up to you to determine whether he  
24       deliberately closed his eyes to the fact and if so, what  
25       inference, if any, should be drawn. However, it's important to

1 bear in mind that mere negligence, recklessness or mistake in  
2 failing to learn the fact is not sufficient. There must be a  
3 deliberate effort to remain ignorant of the fact.

4 The question of whether someone committed an act  
5 knowingly or intentionally should never be confused with the  
6 motive for an act. Motive is what prompts a person to act or  
7 to fail to act. The concept of motive is different than the  
8 concept of knowledge or intent. Intent and knowledge refer  
9 only to the state of mind with which the act is done or  
01:08 10 omitted. The government is never required to prove motive.  
11 For purposes of determining innocence or guilt, therefore, the  
12 motive of a defendant is immaterial, except in so far as  
13 evidence of motive may aid in the determination of his state of  
14 mind or his intent.

15 In Counts One through Four, Mr. Crater is charged with  
16 wire fraud. The indictment charges that from in or around 2014  
17 until at least in or around 2017, Mr. Crater, together with  
18 others, devised and executed a scheme to defraud investors by  
19 soliciting investments in My Big Coin and coins and falsely  
01:09 20 claim that, among other things, that the coins were a  
21 functioning virtual currency and cryptocurrency backed by gold  
22 and other assets and were readily exchangeable for goods and  
23 currency.

24 As to each of the wire fraud charges, the government  
25 must prove beyond a reasonable doubt that, one, that there was

1 a scheme substantially as charged in the indictment to defraud  
2 or a scheme to obtain money or property through false or  
3 fraudulent pretenses; two, the scheme to defraud involved the  
4 misrepresentation or concealment of a material fact or matter,  
5 or the scheme to obtain money or property involved a false  
6 statement, assertion, half truth or knowing concealment of a  
7 material fact or matter; three, that Mr. Crater knowingly and  
8 willfully participated in this scheme with the intent to  
9 defraud; and four, that for the purpose of executing the scheme  
01:10 10 or in furtherance of the scheme, Mr. Crater caused an  
11 interstate wire communication to be used or it was reasonably  
12 foreseeable that for the purpose of executing the scheme, or in  
13 furtherance of the scheme an interstate wire communication  
14 would be used on or about the date alleged.

15 Jurors, a scheme includes any plan, pattern or course  
16 of action. It is not necessary that the government prove all  
17 of the details alleged in the indictment concerning the precise  
18 nature and the purpose of the scheme or that the alleged scheme  
19 actually succeeded in defrauding anyone. But the government  
01:10 20 must prove beyond a reasonable doubt that the scheme was  
21 substantially as charged in the indictment. The term "defraud"  
22 means to deceive another in order to obtain money or property.

23 Intent to defraud involves the state of a person's  
24 mind and the purpose with which he or she acted at the time the  
25 acts in question occurred. Direct proof of knowledge and

1       fraudulent intent is almost never available, and you are not  
2       required to find that such proof existed. It would be a rare  
3       case where it could be shown that a person wrote or stated that  
4       as of a given time in the past he committed an act with  
5       fraudulent intent. Such direct proof is not required and you  
6       may, as I previously instructed, consider circumstantial  
7       evidence as to the defendant's state of mind. Since an  
8       essential element of the crime charged is intent to defraud, it  
9       follows that good faith on the part of the defendant is a  
01:11 10      complete defense to a charge of wire fraud.

11            It is for you to decide whether the defendant acted in  
12       good faith or not. The law is not violated if the defendant  
13       acted in good faith and held an honest belief that his actions  
14       were proper and not in furtherance of any illegal venture. The  
15       defendant, however, has no burden to establish the defense of  
16       good faith.

17            The term false or fraudulent pretenses means any false  
18       statements or assertions that were either known to be untrue  
19       when made or were made with reckless indifference to their  
01:12 20       truth and that were made with the intent to defraud. The term  
21       includes actual, direct false statements as well as half truths  
22       and the knowing concealment of facts.

23            A material fact or matter is one that has a natural  
24       tendency to influence or be capable of influencing the decision  
25       of the decisionmaker to whom it was addressed. An interstate

1 wire communication includes, for example, a wire transfer of  
2 funds between financial institutions, as well as an email  
3 transmission or other internet communication. The wire  
4 communication does not itself have to be essential to the  
5 scheme but it must have been made for the purpose of carrying  
6 it out. There is no requirement that Mr. Crater was  
7 responsible for the wire communication, that the wire  
8 communication itself was fraudulent, or that the use of wire  
9 communication facilities and interstate commerce was intended  
01:13 10 as the specific or exclusive means of accomplishing the alleged  
11 fraud. But the government must prove beyond a reasonable doubt  
12 that Mr. Crater knew or could have reasonably foreseen that use  
13 of a wire communication would follow in the course of the  
14 scheme. The parties have stipulated that the wire  
15 communications alleged in Counts One through Four of the  
16 indictment were transmitted in interstate commerce on or about  
17 the dates alleged. That is, April 8, 2014, for Count One; May  
18 1, 2014 for Count Two; August 13, 2014 for Count Three; and  
19 January 28, 2015 for Count Four. And each wire communication  
01:14 20 was transmitted between Massachusetts and at least one other  
21 state on or about the dates identified in the indictment.  
22 Thus, you do not have to decide whether wire communications  
23 were transmitted in interstate commerce. You must decide,  
24 however, whether the government has proven beyond a reasonable  
25 doubt that Mr. Crater caused an interstate wire communication

1 to be used to carry out the scheme or that it was foreseeable  
2 that for the purpose of executing the scheme or in furtherance  
3 of the scheme, an interstate wire communication would be used.  
4 The government must prove beyond a reasonable doubt that  
5 Mr. Crater knew or could have foreseen that use of a wire  
6 communication would be used in the alleged scheme.

17 As to each of these charges, the government must prove  
18 beyond a reasonable doubt that, one, Mr. Crater deposited,  
19 withdrew or exchanged funds over \$10,000 in a financial  
20 institution affecting interstate commerce on or about the date  
21 alleged in the indictment. Two, that he knew the money came  
22 from some kind of criminal offense. Three, the money was, in  
23 fact, criminally derived from the wire fraud. And, four, the  
24 wire fraud took place in the United States.

25 Affecting interstate commerce means that the

1 transaction affected commerce in any way or degree. A minimal  
2 effect is sufficient, for example, a deposit in an FDIC-insured  
3 bank is sufficient. The government does not have to prove that  
4 Mr. Crater knew that the money was derived from the wire fraud  
5 or that Mr. Crater committed the wire fraud. It is enough that  
6 Mr. Crater had general knowledge that the money came from some  
7 kind of criminal offense.

8                   In Count Eight, the defendant, Mr. Crater, is charged  
9 with conducting an unlicensed money transmitting business. It  
01:16 10 is a federal crime to conduct an unlicensed money transmitting  
11 business. The indictment alleges that Mr. Crater conducted an  
12 unlicensed money transmitting business between in or about 2014  
13 and in or about 2017. As to this charge, the government must  
14 prove beyond a reasonable doubt that, one, that Mr. Crater  
15 conducted, controlled, managed, supervised, directed or owned  
16 on or about the dates alleged in the indictment; two, all or  
17 part of an unlicensed money transmitting business; and, three,  
18 that Mr. Crater did so knowingly.

19                   Unlicensed money transmitting business means a money  
01:17 20 transmitting business which affects interstate or foreign  
21 commerce in any manner or degree and fails to comply with the  
22 requirements, registration requirements of the U.S. Treasury  
23 under Title 31, United States Code, Section 5330 or regulations  
24 prescribed under such section. Under federal law, it is not  
25 unlawful merely to receive money for transmission without a

1 license. Such receipt of money for transmission, however, is  
2 unlawful if it is incident to an unlicensed money transmitting  
3 business.

4 Money transmitting includes transferring funds on  
5 behalf of the public by any and all means, including but not  
6 limited to transfers within this country or to locations abroad  
7 by wire, check, draft, facsimile or courier. For money  
8 transmitting to be conducted on behalf of the public, it must  
9 occur within a transaction, business dealings or for a member  
01:18 10 of the broader community rather than within a personal or close  
11 relationship.

12 Jurors, the exhibits that have been admitted in  
13 evidence for your consideration will be given to you. The  
14 numbers assigned to the exhibits are for convenience and to  
15 ensure an orderly procedure. You should draw no inference from  
16 the fact that a particular exhibit was assigned a particular  
17 number or that there may be gaps in the number sequence.

18 As I indicated to you at the beginning of the trial,  
19 you are permitted to take notes, but some cautions apply. You  
01:19 20 should bear in mind that not everything that is written down is  
21 necessarily what was said. Thus, when you return to the jury  
22 room to discuss this case during your deliberations, do not  
23 assume simply because something appears in somebody's notes  
24 that it necessarily took place in court. Notes are an aid to  
25 recollection, nothing more. The fact that something is written

1 down does not mean that it is necessarily accurate.

2 You'll be pleased to know that I've come to the final  
3 section of my instructions, which is relatively brief.

4 These are the rules for your deliberations. When you  
5 retire, you will discuss the case with the other jurors to  
6 reach agreement, if you can do so. As your first order of  
7 business, you should select a foreperson. You should permit  
8 your foreperson to preside over your deliberations, and your  
9 foreperson will speak for you here in court. Your verdict as  
01:20 10 to each count must be unanimous. That is, all of you must  
11 agree on the verdict.

12 Each of you must decide the case for yourself but you  
13 should do so only after considering all the evidence,  
14 discussing it fully with the other jurors, and listening to the  
15 views of the other jurors. Do not be afraid to change your  
16 opinion if you think you were wrong. But do not come to a  
17 decision simply because other jurors think it is right. This  
18 case has taken time and effort to prepare and try. There is no  
19 reason to think it could be better tried or that another jury  
01:20 20 is better qualified to decide. It is important, therefore,  
21 that you reach a verdict if you can do so conscientiously.

22 If it looks at some point as if you may have  
23 difficulty in reaching a unanimous verdict, and if the greater  
24 number of you are agreed on a verdict, the jurors in both the  
25 majority and the minority should reexamine their positions to

1 see whether they've given careful consideration and sufficient  
2 weight to the evidence that has favorably impressed the jurors  
3 who disagree with them. You should not hesitate to reconsider  
4 your views from time to time and to change them if you are  
5 persuaded that this is appropriate. It is important that you  
6 attempt to reach a verdict but, of course, only if each of you  
7 can do so after having made your own conscientious  
8 determination. Do not surrender an honest conviction as to the  
9 weight and the effect of the evidence simply to reach a  
01:21 10 verdict.

11 I want to read to you now what is called the verdict  
12 form. This is simply a written notice of the decision you will  
13 reach in this case. It's pretty straightforward. It's two  
14 pages. It has the case caption and number on the top. And it  
15 corresponds to each of the counts that are alleged against  
16 Mr. Crater, so Counts One through Eight.

17 As to each count, there is a place to indicate your  
18 verdict finding Mr. Crater not guilty or guilty. And you'll  
19 see as to the wire fraud counts, Counts One through Four,  
01:22 20 they're identified by their date in the parentheses. So wire  
21 fraud on or about April 8, 2014 as to Count One; May 1, 2014 as  
22 to Count Two; August 13, 2014 as to Count Three; and January  
23 25, 2015 as to Count Four. Count Five, the unlawful monetary  
24 transaction counts, again, are identified by date, May 2, 2014  
25 as to Count Five; May 15, 2014 as to Count 6; and June 2, 2014

1 as to Count Seven; and Count Eight is the single operating an  
2 unlicensed money transmitting business.

3 On the bottom of the form, there is a place to date it  
4 and have your foreperson sign it. After you've reached a  
5 unanimous agreement on the verdict, your foreperson, as I said,  
6 will fill out the form, sign it and date it and advise the  
7 court security officer and Ms. Hourihan that you're ready to  
8 return to the courtroom. After you return to the courtroom,  
9 your foreperson will deliver the completed verdict form as he  
01:23 10 or she will be directed to do in open court.

11 Jurors, if it becomes necessary during your  
12 deliberations to communicate with me, you may send a note  
13 through the Court security officer signed by your foreperson or  
14 by one or more members of the jury. No member of the jury  
15 should ever attempt to communicate with me on anything  
16 concerning the case except by a signed writing, and I will  
17 communicate with any member of the jury on anything concerning  
18 this case only in writing or orally here in open court.

19 If you send out a question, I'll consult with the  
01:24 20 parties as promptly as possible before answering it, which may  
21 take some time. You may continue with your deliberations while  
22 waiting for the answer to any question. Remember, you are not  
23 to tell anyone, including me, how the jury stands numerically  
24 or otherwise, until you've reached a unanimous verdict or I've  
25 otherwise discharged you.

1                   Bear with us for a moment. I have to have one last  
2 sidebar on Whisper Tech with counsel.

3                   (Discussion held at sidebar.)

4                   THE COURT: Counsel, Mr. Markham.

5                   MR. MARKHAM: No objection from the government, Your  
6 Honor. Nothing further.

7                   THE COURT: Okay. Mr. Lopez.

8                   MR. LOPEZ: Thank you, Your Honor. First I object to  
9 the willful blindness instruction.

01:25 10           THE COURT: Noted.

11                   MR. LOPEZ: Second, with respect to the money  
12 laundering instruction, I would ask that you add that the  
13 government must prove beyond a reasonable doubt that the money  
14 was in fact the proceeds of the wire fraud as separate from the  
15 laundering transaction. In other words, they have to prove  
16 that the monies were dirty from the wire fraud.

17                   THE COURT: Counsel, the wire fraud instruction that I  
18 gave was consistent with the pattern instructions in regards  
19 to --

01:25 20           MR. LOPEZ: Your Honor --

21                   THE COURT: -- Counts Five through Seven.

22                   MR. LOPEZ: -- it gets to my point, that the money  
23 that came out had to be the money that was from the wire fraud,  
24 not some other source. There was money that was clean in that  
25 account that could have been withdrawn legally. It's only the

1 wire fraud money that couldn't be withdrawn.

2 THE COURT: Counsel, I understand the point, but I  
3 think I've given them the instructions that are consistent with  
4 the law.

5 Mr. Markham, do you want to be heard?

6 MR. MARKHAM: I would just note that in number three  
7 of the unlawful monetary transactions instruction it says that  
8 the money was in fact criminally derived from the wire fraud.

9 THE COURT: Right. Meaning that that's part of the  
01:26 10 government's burden. To the extent that, Mr. Lopez, you wanted  
11 some further instruction, your objection is noted for the  
12 record.

13 MR. LOPEZ: Thank you, Your Honor.

14 THE COURT: Anything else?

15 MR. LOPEZ: No, Your Honor.

16 THE COURT: Did you say no?

17 MR. LOPEZ: I did say no.

18 THE COURT: Thank you.

19 (End of discussion at sidebar.)

01:27 20 THE COURT: Jurors, it's now time for this case to be  
21 submitted to you. As I said before, you will get a written  
22 copy of the jury instructions that I've just read to you, as  
23 well as a copy hard copy of the verdict form.

24 I want to caution you, however, if you choose to  
25 review the jury charge, not to dwell on any particular portion

1 of it, if you decide to review it at all, because you must  
2 consider these instructions as a whole and not just one  
3 individual particular instruction.

4 In a moment, when we send you back up to the jury  
5 room, you may commence your deliberations. All of you who are  
6 the jury, which will be all 12 of you, must be together at all  
7 times when you're deliberating. Whenever you need a recess for  
8 any purpose, your foreperson may declare a recess. Do not  
9 discuss the case during a recess in your deliberations. All  
01:27 10 your discussion of the case should occur only when all of you  
11 are together and your foreperson has indicated that  
12 deliberations may proceed. This should be your procedure so  
13 that everyone in the jury has an equal opportunity to  
14 participate and hear all of what other members of the jury have  
15 to say.

16 In a moment we're going to send you up to the jury  
17 room and you can commence your deliberations. You will also,  
18 as I said before, get hard copies of the exhibits that were  
19 admitted into evidence. And they will also be available on the  
01:28 20 JERS system. The JERS system, as I referred to before, is the  
21 system that's up on the screen that's in the jury room. I  
22 believe there's a button in the low right-hand corner. If you  
23 press it, it will take you through how to operate it. It's  
24 pretty straightforward. It's like a big iPad on the wall.  
25 You'll have the exhibits as well as the jury charge and

1 verdict.

2 With that said, we'll have the deliberating jury  
3 proceeds upstairs. I would ask that Ms. Hayes and Ms. Swindell  
4 remain behind.

5 Ms. Hourihan.

6 (Jury exits the courtroom.)

7 THE COURT: Ms. Hayes and Ms. Swindell, you probably  
8 figured out from the fact that the other 12 have left that you  
9 are the alternate jurors here. We are going to have you stick  
01:29 10 around in a separate room, separate from the deliberating jury.  
11 We will make sure that you get lunch as well. What I have to  
12 instruct you now is that the two of you still need to abide by  
13 all of my cautionary instructions. So don't talk to each other  
14 about the case or anyone else about the case. Don't do any  
15 outside research. Keep an open mind. If there becomes reason  
16 that we have to replace one of the deliberating jurors, we'll  
17 obviously be turning to one of you. So I would ask for your  
18 patience and we'll make sure that you're comfortable. Okay.  
19 Thank you.

01:30 20 (Two jurors exit.)

21 THE COURT: Counsel, I will have you certify on the  
22 record to Ms. Hourihan, when she returns, that from both  
23 parties' views the admitted exhibits are in order, both in hard  
24 copy form as well as the electronic form that's been uploaded  
25 onto JERS, just on the record.

1 Anything else from either side. Mr. Markham?

2 MR. MARKHAM: We do have to add a couple of exhibits  
3 that were added today to the binder, but, yes, we'll try to get  
4 that done.

5 THE COURT: Okay. So I just ask you do that and let  
6 Mr. Lopez know you're doing that.

7 Anything else, Mr. Lopez, from your standpoint?

8 MR. LOPEZ: No, Your Honor.

9 THE COURT: Counsel, my general practice is we'll wait  
01:31 10 to see what the afternoon brings. If it gets to be around  
11 4:20, 4:30, I usually have Ms. Hourihan go upstairs and just  
12 check in with the jury to see what they want to do. And if  
13 they want to go home for the day, we'll assemble and we'll see  
14 that they're all together and we'll send them off.

15 If the deliberations go into tomorrow, it is also my  
16 practice that we gather to greet them every morning and then I  
17 send them back up. It's my intention to bring back the two  
18 alternates and have them to continue abiding by my cautionary  
19 instructions and we'll keep them separate from the deliberating  
01:32 20 jury.

21 I'm sure counsel knows to do this on both sides but  
22 make sure that Ms. Hourihan has your cell phone numbers, and I  
23 don't know if there will be questions or not from the jury but  
24 just so she can reach you in short order if there is any. And  
25 like I said, if they want to go home in the afternoon, I'll

ROUGH DRAFT

1 want to do that in the presence of counsel and Mr. Crater.

2 I referenced this before, counsel. No case is easy to  
3 try. And I know it's particularly challenging when there are a  
4 lot of documents, and this case involved cryptocurrency, which  
5 is new to probably many people in the room, or relatively. I  
6 appreciate the advocacy on both sides and the courtesy I think  
7 you've shown to each other and to this Court and I appreciate  
8 it, so thank you.

9 MR. LOPEZ: Thank you, Your Honor.

01:33 10 MR. MARKHAM: Thank you, Your Honor.

11 MR. MOORE: Thank you, Your Honor.

12 THE COURT: Counsel, I'll leave you to Ms. Hourihan in  
13 terms of certification and, as I said, we'll see what the day  
14 brings. Thank you.

15 MR. MOORE: Yes, Your Honor.

16 (The Court exits.)

17 MR. LOPEZ: I, Scott Lopez, officially certify that  
18 I've reviewed the exhibits and I approve of them being  
19 submitted to the jury.

01:40 20 THE CLERK: As well as the JERS disk?

21 MR. LOPEZ: As well as the JERS disk, assuming the  
22 JERS disk is an exact duplicate.

23 MR. MOORE: I, Siji Moore, certify that I approve the  
24 exhibits and JERS disks to be sent to the jury.

25 (Recess from 1:40 to 3:32 p.m.)

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1                   THE CLERK: All rise.

2                   THE COURT: Counsel, as I'm sure Ms. Hourihan has made  
3 you aware, we received a juror question that I'll just read for  
4 the record.

5                   Can we have an exhibit reference to Count Four of the  
6 indictment, January 28, 2015, wire fraud, question mark.

7                   Counsel, I'll -- and you can all be seated, I'm just  
8 standing because we've been sitting a lot.

9                   Counsel, I'll hear you on proposed responses.

03:32 10           MR. MARKHAM: Your Honor, I'm pretty positive it's  
11 12G. I think that's what both parties have, so --

12                   THE COURT: So, Mr. Lopez --

13                   MR. LOPEZ: I concur.

14                   THE COURT: Do you agree with that?

15                   So I'll just say, In response to your question for an  
16 exhibit reference to Count Four of the indictment, it is  
17 Exhibit 12G.

18                   MR. MARKHAM: And, your Honor, there's no descriptions  
19 in the JERS disk. I didn't double check that before it went  
03:33 20 in, largely because I was in the courtroom, the paralegals were  
21 doing it upstairs. I'm just wondering whether it's worth  
22 providing an exhibit list or providing an updated JERS list if  
23 they're having a hard time finding exhibits.

24                   THE COURT: Okay.

25                   MR. MARKHAM: Because we have an exhibit list that we

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1 could just -- that way they have a way to get through these  
2 exhibits.

3 THE COURT: Mr. Lopez, do you have any position on  
4 that?

5 MR. LOPEZ: I would just like to see the final exhibit  
6 list before it goes in.

7 THE COURT: Why don't you both look at the exhibit  
8 list, and if there's an agreement, we can send that up to them.

9 In the meantime, while you talk about that, I'm just  
03:34 10 going to write up the answer.

11 (Discussion off the record.)

12 MR. MARKHAM: And, your Honor, there's one other item.

13 THE COURT: Just give me a moment.

14 (Discussion off the record.)

15 THE COURT: I just wrote, counsel, In response to your  
16 question requesting an exhibit reference to Count Four of the  
17 indictment, that exhibit number -- I used the number symbol --  
18 is Exhibit 12G.

19 Fine with both sides?

03:35 20 MR. MARKHAM: Yes, your Honor.

21 MR. LOPEZ: Fine, your Honor.

22 THE COURT: Should I add a line, For ease of  
23 reference, please find an exhibit list attached?

24 MR. MARKHAM: Yes, your Honor. I think we're going to  
25 have it printed out in the next 10 minutes. Given the number

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1 of emails, I do think it would be helpful.

2 THE COURT: For your ease of reference, please find an  
3 exhibit list for the admitted exhibits that you have in the  
4 jury room and in electronic form on the JERS system.

5 Okay. Let me just read you the whole thing.

6 In response to your question requesting an exhibit for  
7 Count Four of the indictment, that exhibit number is Exhibit  
8 12G.

9 For your ease of reference, please find an exhibit  
03:37 10 list for the admitted exhibits that you have in the jury room  
11 and in electronic form on the JERS system.

12 And then I just signed it.

13 So, counsel, and I have no pride of ownership, if you  
14 want to look at it before it goes up, but I would just say wait  
15 for the exhibit list to come down, make sure that both sides  
16 sees it, and if it's in order, Ms. Hourihan will just bring  
17 this response up with the exhibit list.

18 MR. MARKHAM: Thank you, your Honor.

19 Can I note one thing?

03:37 20 THE COURT: Sure.

21 MR. MARKHAM: Just so you know, a request will be  
22 coming in.

23 A couple of the agents in this case, their home  
24 address were on subpoena returns that are now on the public  
25 docket. They have understandable concern about that.

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1                   Also, I guess during voir dire, their hometowns were  
2 mentioned as well. I'd just ask if there's any way we could  
3 seal the two subpoena responses and potentially their hometowns  
4 in the voir dire.

5                   THE COURT: So I guess as to what's on the docket,  
6 counsel -- and I'm assuming, Mr. Lopez, you don't have any  
7 objection?

8                   MR. LOPEZ: Your Honor, my memory was that at least  
9 with respect to one of the agents, the address we had was not  
03:38 10 actually their home address because I didn't get good service,  
11 but --

12                  MR. MARKHAM: I haven't looked -- they just e-mailed  
13 me saying these are the two docket numbers.

14                  THE COURT: I'd just say, Mr. Markham, if you can just  
15 identify them for Mr. Lopez, like which ECF entries you're  
16 talking about and exactly what you want to redact, I would  
17 entertain redacting at least that information.

18                  In terms of the voir dire, that is not on the docket,  
19 I don't think, Ms. Hourihan. I don't think the transcript  
03:39 20 would be on the docket.

21                  (Discussion off the record.)

22                  THE COURT: Did you order the impanelment transcript?  
23 You probably didn't.

24                  MR. MARKHAM: No.

25                  THE COURT: So assuming that's the case, it wouldn't

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1 appear on the docket, so I have less concern about that.

2 As you may have noted, if someone mentioned a street  
3 address, I did have that redacted when I heard it, but I think  
4 most people just identified their towns.

5 MR. MARKHAM: Okay, your Honor.

6 MR. LOPEZ: Your Honor, for the record, I have no  
7 problem with redacting if it's a home address.

8 THE COURT: Okay. That's fine.

9 Just, Mr. Markham, if you can just identify that for  
03:40 10 Ms. Hourihan --

11 MR. MARKHAM: Yes, your Honor.

12 THE COURT: -- which exhibits we're talking about.  
13 And like I said, I don't think the transcript will appear.

14 MR. MARKHAM: Excellent, your Honor. Thank you for  
15 that.

16 THE COURT: And again, counsel, just noting the time,  
17 I will have Ms. Hourihan just check in with the jury if we  
18 haven't heard anything around 4:30 to see what they'd like to  
19 do.

03:40 20 MR. MARKHAM: Yes, your Honor.

21 THE COURT: Thank you.

22 THE CLERK: All rise.

23 (Recess taken from 3:40 to 4:31 p.m.)

24 THE CLERK: All rise.

25 (The Court entered the courtroom.)

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1                   THE CLERK: Please be seated.

2                   THE COURT: Good afternoon again, counsel.

3                   We got another note from the jury. I'll just read it  
4 for the record. I understand Ms. Hourihan has shared it with  
5 you.

6                   We, the jury, cannot come to a conclusion on the 4th  
7 count because we are unable to locate the evidence of the wire  
8 transfer from January 28, 2015. Can we please be directed to  
9 the wire transfer that supports this charge? Which bank?

04:36 10           Account number?

11                   And then it's signed by what I take to be either the  
12 foreperson or another member of the jury.

13                   Counsel?

14                   MR. MARKHAM: Yes, your Honor. My understanding is  
15 they don't have the indictment with them, so I don't think they  
16 understand that Count Four is an email, it's not a wire  
17 transfer.

18                   THE COURT: Okay.

19                   MR. MARKHAM: So I think at a bare minimum we can  
04:36 20 direct to them page 21 of the jury instructions which make  
21 clear that an interstate wire communication can include an  
22 email.

23                   THE COURT: Okay.

24                   MR. MARKHAM: But I also think -- I think it needs to  
25 be made clear to them that Count Four is not -- they're looking

1 for an account number that doesn't exist.

2 THE COURT: Got it.

3 Mr. Lopez?

4 MR. LOPEZ: Your Honor, as I read the question,  
5 they're looking for something that doesn't exist. So I  
6 wouldn't want to instruct them -- I wouldn't want to add  
7 anything to the instruction that might suggest that it doesn't  
8 exist because it's their job to determine what the facts are --

9 THE COURT: But, I think, counsel, what the issue may  
04:37 10 be is if you look on page 21 --

11 MR. LOPEZ: Yes.

12 THE COURT: -- of the charge, the parties have  
13 stipulated that the wire communications alleged in Count One  
14 through Four, and then we've elsewhere described that a wire  
15 communication in the paragraph above, a wire communication can  
16 include a wire transfer of funds between financial institutions  
17 as well as an email transmission or internet communication.

18 There is no dispute that Count Four charges the email  
19 transmission, not a wire transfer.

04:38 20 So that's, as I take -- I think that's a reasonable  
21 reading of their question.

22 MR. LOPEZ: But their understanding of the fraud is  
23 that -- the wire fraud that it has to be a scheme in order to  
24 obtain money or property by means of false representations.  
25 They're looking for the money. There is no money, and

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1 therefore, there should be no fraud.

2 THE COURT: Counsel, I think that's reading more into  
3 this.

4 I think what they're asking for is, because we're  
5 unable to locate the evidence of the wire transfer from January  
6 28, 2015, can we please be directed to the wire transfer.

7 I think it's appropriate here, counsel, to point them  
8 to what they've already been instructed about on page 21, that  
9 the wire communication alleged in Count Four is a January 28,  
04:39 10 2015 email and remind them, again, with reference to page 21,  
11 that an interstate wire communication includes, for example,  
12 wire transfer of funds, as well as an email transmission or  
13 other internet communication.

14 MR. LOPEZ: Just note my objection, your Honor.

15 THE COURT: Noted.

16 Mr. Markham.

17 And is 12E the email?

18 MR. MARKHAM: 12G is the --

19 THE COURT: Excuse me, 12G.

04:40 20 MR. MARKHAM: So essentially they asked for that email  
21 and now they're looking for the wire transfer on the same date,  
22 it seems they're just confused.

23 I do wonder whether providing them this one page of  
24 the indictment that lists out the exact wires charged would  
25 make them -- would not be any input from counsel, it just be

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1 the wire charged in the indictment, because it says interstate  
2 wire email.

3 THE COURT: Well, counsel, I may just quote -- if I  
4 can just see the page, counsel.

5 MR. MARKHAM: Yes.

6 Permission to approach.

7 THE COURT: Yes.

8 Counsel, just give me a minute, and then I'll read it  
9 back to you before we give it to the jury.

04:42 10 (Pause.)

11 THE COURT: The exhibit number again was 12G?

12 MR. MARKHAM: 12G, your Honor, yes.

13 (Pause.)

14 THE COURT: Okay. So this is what I propose to say:  
15 In response to your question the, open quote, interstate wire  
16 communication, end quote, alleged in Count Four is the January  
17 28, 2015 email from Mr. Crater, open paren, Exhibit 12G, close  
18 paren period.

19 As explained on page 21 of the jury channel, an, open  
04:45 20 quote, interstate wire communication, can be a wire transfer of  
21 funds between financial institutions or an email transmission.

22 Counsel.

23 MR. MARKHAM: No objection from the government, your  
24 Honor.

25 MR. LOPEZ: I object, your Honor.

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1                   THE COURT: For the reasons stated before?

2                   MR. LOPEZ: Yes, your Honor.

3                   THE COURT: Counsel, I would further say what you  
4 further argued before, Mr. Lopez, is contrary to the next  
5 sentence in the paragraph in regards to what the wire  
6 communication does not itself have to be essential to the  
7 scheme but must be made for the purpose of carrying it out.

8                   So I think I always want to make sure that I'm not  
9 answering a question they haven't asked, and I think here where  
04:46 10 we've given them the operative document and they're asking a  
11 question, it's reflecting some confusion about the meaning of  
12 wire communication for the purposes of Count Four.

13                   So noted for the record.

14                   MR. LOPEZ: Your Honor, just to add, it's possible  
15 that their interpretation of your instructions is that in order  
16 to be part of the scheme, there has to be some obtaining of  
17 money, and there's no obtaining of money. Now you're  
18 elaborating upon your instructions and further instructing them  
19 that the email itself is sufficient, the implication is even  
04:46 20 without any transfer of funds.

21                   I think that is outside the realm of the jury  
22 instructions.

23                   THE COURT: Counsel, I think this is, as I said, I  
24 don't think I'm saying anything in this response, I'm referring  
25 to the definition of interstate wire communication, which is

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1 reflected on page 21, that the email is what's charged in Count  
2 Four, which is already before them, both in evidence, 12G, and  
3 as alleged, and the last sentence just, again, quotes what I've  
4 already said in the charge.

5 Thank you.

6 MR. LOPEZ: Note my objection, your Honor.

7 THE COURT: Okay.

8 Counsel, I'm just going to sign this.

9 Okay. Counsel, again, no pride of ownership, so if  
04:48 10 you want to take a look at it before it goes up, thank you.

11 And I'll give this back to you, this page of the  
12 indictment.

13 MR. MARKHAM: Thank you, your Honor.

14 (Recess taken.)

15 THE COURT: Before you all leave, counsel, I just had  
16 a further thought that I was just going to add here, just to  
17 Mr. Lopez's point -- you can all be seated for the moment.

18 I think I'm just going to add a line at the end that  
19 says, As to each of -- as with each of the wire fraud counts,  
04:50 20 you must find that all elements of the wire fraud have been  
21 proven beyond a reasonable doubt as explained in the wire fraud  
22 instruction.

23 Any objection to that addition?

24 MR. MARKHAM: No, your Honor.

25 THE COURT: Mr. Lopez.

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1 MR. LOPEZ: No, your Honor.

2 THE COURT: Okay. Give me a second.

3 (Pause.)

4 THE COURT: Okay. Let me just read it back.

5 In response to your question, the, open quote,  
6 interstate wire communication, end quote, alleged in Count Four  
7 is the January 28, 2015 email from Mr. Crater, open paren,  
8 Exhibit 12G, close paren.

9 As explained on page 21 of the jury charge, an, open  
04:55 10 quote, interstate wire communication, end quote, can be a wire  
11 transfer of funds between financial institutions or an email  
12 transmission.

13 As with each of the wire fraud counts, open paren,  
14 counts 1-4, close paren, you must find that all elements of the  
15 wire fraud have been proven beyond a reasonable doubt as  
16 explained in the wire fraud instruction.

17 And then I signed it.

18 MR. MARKHAM: No objection, your Honor.

19 THE COURT: Okay.

04:55 20 Mr. Lopez?

21 MR. LOPEZ: Your Honor, as the hour is late, what I'm  
22 wondering is if maybe we should wait until tomorrow to give  
23 that back to the jury --

24 THE COURT: Well, I think that given that they're  
25 giving us questions and not an indication that they're burning

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1 to get out of here, I will send this up, and then we'll see  
2 what they want to do.

3 MR. LOPEZ: Fine.

4 THE COURT: And Ms. Hourihan is close if they decide  
5 they want to come back tomorrow.

6 MR. LOPEZ: I assume that they're up to Count Four and  
7 they have --

8 THE COURT: I think assumptions --

9 MR. MOORE: There's a famous saying about that.

04:56 10 THE COURT: Are always unclear about what a jury's  
11 process is. I won't speculate on how they're doing their  
12 business. Thank you.

13 ALL: Thank you.

14 (Recess taken from 4:56 to 5:08 p.m.)

15 (The Court entered the courtroom.)

16 THE COURT: The jury wants to go home for the day, so  
17 I'm just going to give them instructions, cautionary  
18 instructions, until they return tomorrow and we recognize that  
19 they're all here.

05:09 20 (Pause.)

21 THE CLERK: All rise for the jury.

22 (Jury entered the courtroom.)

23 THE COURT: Good afternoon, jurors.

24 I understand you want to go home; it's been a long  
25 day, we understand.

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1                   Just keep in mind all of my cautionary instructions  
2 until I see you again in the morning and send you back to  
3 continue your deliberations.

4                   In the meantime, don't talk to each other or anyone  
5 else about the case, keep an open mind, don't do any outside  
6 research, and I'm going to ask all of our jurors, not just the  
7 12 deliberating jurors, but our two alternates, to return  
8 tomorrow a little before 9:00. You'll all come into the  
9 courtroom, we'll make sure you're all here, and then I'll send  
05:11 10 the deliberating jury back up to continue your deliberations.

11                   Have a good evening. Thank you.

12                   THE JURY: Thank you, your Honor.

13                   (Jury left the courtroom.)

14                   THE COURT: Counsel, unless you think we'll have  
15 anything else to discuss, I would just say that we can assemble  
16 a few minutes before 9:00 tomorrow.

17                   Anything else I should take you now?

18                   MR. MARKHAM: Nothing from the government, thank you.

19                   MR. LOPEZ: No, your Honor, thank you.

05:11 20                   THE COURT: Thank you.

21                   (Court adjourned at 5:11 p.m.)

22                   -----

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ROUGH DRAFT

## 1 CERTIFICATION

2 We certify that the foregoing is a correct transcript  
3 of the record of proceedings in the above-entitled matter to  
4 the best of our skill and ability.

5 /s/Debra M. Joyce July 20, 2022  
6 Debra M. Joyce, RMR, CRR, FCRR Date  
Official Court Reporter

7

8

9 /s/Kelly Mortellite July 20, 2022  
10 Kelly Mortellite, RMR, CRR Date  
Official Court Reporter

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